



The year 2016 is coming to its end and we are looking back upon it. Thanks to you, it was a very successful year for **KempHoogstad**.

We are on the market for more than ten years and we grow namely thanks to good conditions of the economy, skilful professionals and high-quality projects.

We are proud that we participated in one of the most prestigious transactions in the real estate market, the sale of the department store **Kotva**.

It is a pleasure to announce that **Mr. Filip Dostál** was named a **second partner** in the Prague office of KempHoogstad. Filip is with KempHoogstad from the very beginning and thanks to him the firm can celebrate the successful year 2016.

We would like to **thank you** all for your cooperation and wish you a Merry Christmas and all the best in 2017.

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However, since the amendment is still under debate in the Chamber of Deputies of the Parliament, it is certain that the originally proposed effect from 1 January 2017 will be postponed until 1 April 2017 based on the proposed amendment. At the same time, it is also possible that the proposed bill will be changed, because proposed amendments have already been submitted concerning, for example, a fifty percent decrease in the maximum flat expense rate and changes in the conditions of electronic sales records. We will keep you posted on the status of the amendment.

We would like to inform you about the most important proposed changes that are not expected to be affected by any amendments. In addition to changes in certain tax areas, the purpose of a number of proposed modifications is mainly to refine the legislative text of the Act, to confirm interpretation and to correct some irregularities.

Income Tax Act

Changes in the exemption of certain income

The five-year time test for the exemption shall be applied not only to the sale of real estate but also to the settlement of co-ownership of real estate.

The five-year period for the exemption of income from the sale of a share in a corporation and a three-year period for the exemption of income from the sale of securities and mutual shares will also include the time an inherited business share or security or mutual share owned by the deceased who was a relative in direct line or a spouse was being sold.

Income from the sale of a house or an apartment or any compensation received for the release of an apartment will be exempt from income tax if such funds are used by the taxpayers to secure their own housing. Until now, this also applied to securing housing for a family member or other persons.

The exemption of income from the sale of securities and mutual shares up to the aggregate amount of CZK 100,000 shall not apply to securities and mutual shares that are business assets.

The exemption of income from the sale of a share in a corporation shall not apply to the sale of a share that corresponds to a non-monetary investment contribution of a shareholder in the equity made within 5 years prior to the sale. Such change should apply in 2016, as until now the condition has also been applied to monetary investment contributions.



Changes in income from employment

In the case of minor income from employment not exceeding in total CZK 2,500 per month for one employer, the employer will apply a 15% withholding tax. As for agreements to perform work, a limit of CZK 10,000 per month for one employer will be kept for withholding tax.

The non-monetary income of employees in the form of goods or services of a health, medical, hygiene or similar nature (including medical equipment or medical devices on prescription), provided by the employer from the Welfare Fund from the profit after taxes or to the debit of non-tax expenses (e.g. payment for vitamins, rehabilitation, spectacle frames, etc.) will be exempted from tax.

Tax declarations of employees for the purpose of tax on income from employment can be also filed in a different way than on paper, for example electronically.

Changes in the area of tangible and intangible assets

It will also be possible to apply the conditions for the depreciation of technical improvements made by a lessee or user of tangible assets to other taxpayers using the respective tangible assets (e.g. a sublessee or a new lessee upon the assignment of lease agreement). As with leases, the rules for handling technical improvements at the moment of the termination of the use of any tangible assets shall be applied to such cases.

The possibility to apply such new rules will concern technical improvements made after the amendment becomes effective.

As for the elimination of a construction work in connection with the construction of a new building, the input price will also include the net tax value of the eliminated work (not regulated yet; until now, the net book value was used). As for the depreciation of intangible assets, the depreciation periods as set by law will be considered to be minimum, i.e. it will be possible to depreciate the intangible assets over longer periods of time.

Changes in the area of financial leasing, or the confirmation of current interpretations

The provisions of financial leasing do not apply to tangible assets excluded from depreciation or to intangible assets. The conditions of financial lease are met even if the contract is terminated early but the minimum lease period was satisfied and the subject-matter of the lease was transferred to the user.

The conditions relating to the purchase price and the inclusion of assets in business assets for the purpose of the tax deductibility of payments for the use of the assets prior to their acquisition apply to all the cases in which the taxpayers used for consideration assets (not only in the form of lease but also in the form of an innominate contract) which they did not own and it was not a financial lease, and then purchases the assets.



Taxation of family endowment institutions

The concept of a family endowment fund will be newly introduced, which will include foundations and endowment funds used to support the founder or persons close to the founder. Family endowment institutions will not be publicly beneficial taxpayers.

Any payment from the profit of family endowment institutions will be income from capital assets taxed by withholding tax, while any payment from assets will be among the other income subject to tax according to Section 10 of the Income Tax Act. As for payments from assets, it will be possible to apply the tax exemption for the taxpayer's gratuitous income from assets invested by the taxpayer into a family endowment institution or invested by a person in direct or collateral line.

Family endowment institutions and trusts will be covered by the definition of parent companies and the payment of profit from shares in the corporations owned by them may be exempted under certain conditions.

Other changes

Increasing the tax credit for one child from CZK 17,004 to CZK 19,404 and the second child from CZK 20,604 to CZK 24,204 has been proposed. For the purposes of assessing entitlement to tax credits, it is decisive whether the taxpayer's income amounts to six times the minimum wage, while now it will be necessary to reach this limit only through the sum of income from employment or self-employment.

Income from sources in the Czech Republic will also be, in addition to income from the sale of real estate or business establishments located in the Czech Republic, the income from its acquisition without consideration, while it also applies to the transfers between tax non-residents. Furthermore, the gratuitous acquisition of a share in a business based in the Czech Republic will also newly constitute income from sources in the Czech Republic.

The amendment confirms the interpretation according to which when applying the withholding tax on the advance payment and additional payment for a share in the profits, both payments are considered separate income, for which the conditions for a possible exemption are checked separately, i.e. separately for advance payment and separately for the additional payment of a share in the profits. Therefore, if e.g. a taxpayer that is not the parent company is paid an advance on a share in the profits and, subsequently, before the settlement of the advance on a share in the profits (through a decision of the General Meeting), it becomes the parent company, the originally taxed share in the profits will not be subsequently exempted.

Value Added Tax Act

The specific regulation for the application of VAT by association in a company (formerly an association) will be repealed. Each member will thus fulfil its obligations arising from the VAT Act in accordance with the general rules and independent of other members, while the manner of the mechanism of mutual performance between members and in relation to their customers will be determined by the members themselves by the nature of their activities.



The association incorporated by the time the amendment takes effect will be able to follow the existing rules for a 2-year transitional period.

The specific regulation for the determination of the date of taxable performance for so-called repeated supplies and for the transfer of rights will be repealed. The date of taxable supply will in principle be governed by the particular character of the given supply and the general rules. The rules will newly contain rules for the supplies provided for a period longer than 12 months, with the date of taxable supply occurring no later than the last day of the calendar year following the year in which the supply has been initiated.

The subject of financial lease will now be considered a part of the business assets of the lessee, which will now be related to the obligation of any subsequent adjustment of VAT deduction due to any change in the use of the assets. The change should apply to the contracts entered into after the effective date of the amendment.

The introduction of the obligation to adjust additionally the claimed VAT deduction in the case of destruction, loss or theft of property not properly documented or confirmed. Thus, the Act clearly establishes the obligation to make the adjustment of the VAT deduction for any deficits.

In the case of the adjustment of a VAT deduction due to the sale of fixed assets, the adjustment will be made in the tax period in which the sale took place, not in the last tax period of the calendar year.

A proposed extension of the application of the reverse charge mechanism when providing workers for construction and installation work, the handover of real estate sold by a debtor in a compulsory sale procedure based on a court order, the supply of goods provided as security in the realisation of the guarantee or the supply of goods following the assignment of the reservation of ownership to the transferee and the exercise of this right by the transferee.

As parts of efforts to combat tax evasion, the institute of an unreliable person, i.e. a person who is not a VAT payer, but is in serious breach of obligations relating to tax administration, will be established. Further the recipient of taxable supply will be liable for the payment of taxes while paying using a virtual currency.

Tax Code

The tax administrator will now have to disclose the information and the conditions under which it will be possible to carry out tax payment by card. However, a limited use of tax payment by card especially in the area of payment of court and administrative fees, import duties and some road traffic fines is expected for the time being.

The tax administrator will be able to change the time of the deferment of tax payment or related conditions or to modify them at the request of the taxpayer.

The tax administrator will have an obligation to notify trade licensing authorities and registry courts already from the date when discovering any facts indicating the fulfilment of the conditions for the dissolution of a legal person or for the cancellation or suspension of a trade or other licence or when the facts suggest that the taxpayer runs its business without being authorised to do so.

There should be an increase in the rate of interest on tax deduction by 1% per year and some changes in the conditions under which the taxpayer concerned becomes entitled to interest on the tax deduction should be



adopted. Now, the entitlement to interest should not arise only in the event the procedure to remove any doubt is applied, but always when more than 4 months passed following the deadline for filing a tax return (i.e. starting from filing tax returns if filed after the deadline) from which the entitlement to tax deduction resulted. However, the Act establishes certain moments that will interrupt the period for the arising of entitlement to the interest deduction (e.g. a procedure to remove any doubt in the tax return or a call for the initiation of a tax inspection).



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