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Tax and Legal Update

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Dear readers,

At the moment, we are at "legislative half-time": the proposed tax changes that are to enter into effect from 2017 have passed through the commenting procedure, but have not yet been submitted to parliament. All we can see is the current score of comments accepted; this gives us space for a more long-term outlook.

The tax administration has prepared a document on the implementation of ATAD and BEPS measures, which we cover in this issue. Leaving aside the reflections on limiting the tax-deductibility of interest depending on profit generated, it is the proposed obligatory reporting of aggressive tax schemes to the tax administrator before implementing them that deserves attention. This concept, which is based on experience in other states (who, however, usually compensate for this obligation by providing other advantages, such as limited tax inspections or faster tax refunds) would substantially change the relationship between clients and their tax advisors.

Last month, the tax administration was also busy raising public awareness and PR: a press conference was held by the General Financial Directorate on the topic of stricter checks of multinationals. Apart from transfer pricing, which we also tackle in this issue, the tax administrators now focus their attention also on intra-group restructuring. It is to be expected that after the initial workload connected with VAT ledger statements subsides, this will be the next target of detailed tax inspections.

In legal news, please note especially the amendment to the Corporate Criminal Liability Act. It significantly extends the scope of criminal offences that corporate entities may be liable for. However, the fate of the amendment is yet uncertain – the senate has returned it to the chamber of deputies; it is opposed to the new concept of exoneration of corporate entities, which would allow companies to avoid their criminal liability on the corporate level by having adequate internal controls in place.

Let's steel ourselves for the second half of the game.

Petr Toman
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Expected result of comment procedure relating to Income Tax Act

During the comment procedure relating to a 2017 amendment to the Income Tax Act the professional public succeeded in changing the tax administration's opinions in some respects. The tax administration has thus abandoned (at least for now) some of its original intentions, in particular relation to the following areas:

1. The restriction on the application of Section 23(4)(e) of the Income Tax Act is likely to be omitted.

- The original draft amendment intended to restrict the applicability of Section 23(4)(e), following the example of "famous" Section 24(2)(zc), i.e. in accordance with the proposed amendment, non-taxation would have only applied to the re-billing of non-deductible expenses.
- The professional public offered a number of convincing arguments showing that such a new regulation would lead to entirely absurd tax solutions (e.g. taxation of revenues from receivables that were written-off and associated expenses were non-deductible). The tax administration decided to abandon this concept after all.

2. The tax treatment of interest expense paid to individuals.

- With reference to a unique court decision, the original draft amendment was meant to extend the applicability of existing Section 24(2)(zi) to all credit financial instruments, i.e. the deductibility of related interest expenses would only be limited to situations in which such interest has really been paid. This change would negatively affect bond issuers and financial institutions dealing with products other than credits and loans.
- The professional public again put forward a number of powerful arguments that illustrate the practical problems with and excessive administrative requirements of the new tax treatment, in particular with respect to tradable securities, that in the past were the reason for restricting the tax treatment at issue only to credit and loan financing. The tax administration seems to have accepted the arguments and it is likely that this provision will not be part of the proposed amendment.

On the other hand, however, the tax administration stands firm on its proposals regarding a number of other issues, such as extending the possibility of depreciating technical improvements made by sub-lessees also to assets acquired before the effective date of the amendment or gratuitous supplies. The negotiations held with representatives of the Chamber of Tax Advisors to discuss comments on the 2017 amendment thus ended with the relatively good score of 7:53 in favour of the tax administration. We will of course see how the proposed amendment develops through the legislative process. Also, our joy over putting through certain changes might be premature, as the Ministry of Finance is already working on the concept of an entirely new Income Tax Act, which should be, according to the ministry's representatives, ready in September 2017.

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Local reverse-charge in telecommunication services

Telecommunication services provided on a wholesale basis will be subject to the reverse-charge mechanism from 1 July 2016, according to a draft decree with comment procedure currently under way.

The Ministry of Finance provides the reasons for this measure in a report submitted along with the draft decree, in particular stating tax evasion instances recently detected upon the provision of telecommunication services. The draft decree extends the reverse-charge mechanism application on two types of contracts concluded between entities operating in electronic networks on a wholesale basis: the provision of access to electronic communication networks and the connection of electronic communication networks pursuant to Act No. 127/2005 Coll., on Electronic Communication. The reverse-charge regime will not apply to the provision of telecommunication services (such as calls or data transfers) to end customers (payers). The range of payers that will be affected by the new provision will therefore not be extensive. The decree should become effective from 1 July 2016, since the ministry intends to respond quickly to any potential transfers of VAT fraud from other EU member states.

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ADIS as an assistant to tax authorities: how does it work?

Last month the financial administration published a study assessing the strengths and weaknesses as well as risks associated with its rather "mysterious" information system called ADIS. The study offers an interesting perspective on certain aspects of this powerful system, to which many a tax administrator refers to in a whisper, when answering questions of taxpayers regarding tax assessment, saying "we'll see how ADIS will process this."

Meet ADIS of '93

The automated tax information system (ADIS), launched in 1993, consists of separate tax modules administering each individual tax. The system fragmentation and an interface with tabs similar to the historical T602 word processor cause a number of problems in practice to tax administrators and, accordingly, to taxpayers. This system does not provide an overall view of taxpayers' liabilities and does not allow the effective use of relevant data by tax administrators.

The study also confirms the professional public's long-standing suspicion that the setting of ADIS does not comply with current legislation, case law and methodological requirements. A typical example we most often encounter in practice is the failure to offset tax overpayments for the purpose of calculating default interest. Taxpayers thus must claim their money back through remedial measures.

ADIS: the master of tax administration

Tax administration employees as ADIS users do not view the system entirely positively. The study shows that their work with ADIS is difficult, especially owing to different interfaces. They must switch between individual modules with different control functions and may only use keyboard abbreviations and tab keys instead of a mouse or windows. Insufficient linkage between the individual modules often results in the necessity to re-enter data that has already been input into another module.

According to the study, tax administrators find ADIS's user environment unfriendly, admitting that a large number of them do not at all understand how the system actually works. In addition, there is no comprehensive user manual available to them, which only further underlines the non-transparency of ADIS. Experienced tax administrators tend to guard their knowledge of ADIS's functions as secret and highly valuable know-how that they refuse to share with their junior colleagues.

The study reveals that the performance of any basic administrative tasks in ADIS is extremely time-consuming. No wonder that 95% of the total number of tax administration employees are engaged in pure tax administration (such as tax assessment and collection) whereas only 5% are involved in tax inspections.

The study results point to the necessity to make radical changes. And, moreover, these changes could be paid from the system itself: a more efficient data connection between the modules may save the time administrators now spent re-typing numbers from one module to another in ADIS, which often happens to freeze; this capacity (up to 5000 clerks) could then be used for the performance of more frequent tax inspections. In this manner, the tax administration may be even able to collect sufficient funds for a comprehensive revamping of ADIS or the acquisition of a new one.

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Ministry's view of ATAD and BEPS

In April 2016, the Ministry of Finance presented to the professional public a document summarising the individual articles of the Anti-Tax Avoidance Directive (ATAD) and actions within the BEPS project. The document contains a brief description of individual measures, and, more importantly, identifies the risks and benefits of their implementation in the Czech Republic. The document can be seen as the ministry's view of the individual points of both initiatives and the form of their possible implementation.

The ministry generally agrees with all that is proposed by the directive, and has no major reservations against any of its articles. The document, among other things, mentions the impacts of the proposed measures neutralising the effect of hybrid mismatch arrangements, limiting the tax-deduction of interest, and preventing the artificial avoidance of permanent establishment. As regards hybrid arrangements, the ministry states that some form of regulation of hybrid arrangements has already been proposed within the amendment to the Income Tax Act: the amendment prohibits the tax exemption of dividends received by a Czech company where the dividend payment was a tax-deductible expense in the source country.

Limiting the tax-deduction of interest expenses, which is most discussed by both professionals and the public (interest deductions are to be limited by the maximum amount of 30% EBITDA or EUR 3 000 000) would affect more taxpayers than the currently applied thin capitalisation rules, according to the ministry. This would limit the attractiveness of debt financing in terms of tax treatment, and reduce the volume of profits transferred from the Czech Republic. The ministry, however, also admits some negatives of the current wording of the directive: the rules would also apply to interest paid to unrelated parties, thus affecting interest payments that are mostly a legitimate expense. It is thus to be expected that this provision of the directive may be subject to further debate, and will possibly change.

The ATAD Directive also introduces exit taxation (when changing a tax domicile or relocating assets between the permanent establishment and the company to whom the permanent establishment belongs / establishing entity). The directive proposes that, from a tax perspective, the relocation of assets to another state should be viewed as a sale.

The Ministry of Finance also comments on individual points of the BEPS project. Notably, the ministry does not plan to implement the limitation of benefits (LOB) rule in double taxation treaties. It also seems that no changes in the permanent establishment concept (especially as regards the dependent agent rule) are to be expected in the Czech Republic in the near future.

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Transfer pricing checks growing stricter

Large corporations paying low taxes and having registered offices in tax heavens. That is how multinational corporations are generally viewed by the media not only in the Czech Republic. A call for corporate social responsibility in business is almost turning to a witch-hunt, putting major and best-known corporations under the tax administration's scrutiny. Transfer prices are on top of the tax administrations' agendas in all advanced economies. What is the situation in the Czech Republic almost a year after the introduction of a mandatory appendix to corporate income tax returns summarising transactions with related parties?

It is not surprising that in practice tax inspections primarily scrutinise companies that reported losses in one or more taxable periods while listing material transactions with related parties in mandatory appendices to their corporate income tax returns. Corporations showing significant fluctuations in profit also attract the tax administration's interest.

This tendency was confirmed at a recent press conference with the Minister of Finance who confirmed that the financial administration, following the example of the OECD and the EU, has been using the term *Action Plan for Transfer Pricing Checks* for these activities. This action plan involves the introduction of the above-mentioned mandatory appendix to corporate income tax returns as well as the establishment of new specialised monitoring teams while paying attention to enhancing the quality of education provided to tax administration employees. According to the financial administration, more than 10 thousand taxpayers submitted the mandatory appendix last year. After performing an analysis of these appendices, the financial administration has determined several risk criteria according to which entities are selected for in-depth transfer pricing checks.

Transfer pricing checks in particular focus on:

- where the actual management of a corporation is located;
- who the beneficial owner of income is;
- whether the reported transaction has actually taken place;
- whether the reported expenses relate to the taxpayer's economic activity;
- whether prices between related parties have been correctly set – a transfer pricing review (including the selection of a transfer pricing method);
- what the distribution of functions and risks is;
- whether management fees, royalties and interest rates are not inadequately high;
- company restructuring;
- corporations recognising losses in the long-term.

The ministry stated at the press conference that up to CZK 1 billion has been additionally assessed as a result of transfer pricing checks and inspections focusing on tax heavens carried out in 2015 and the first quarter of 2016.

Our recent experience shows that the tax authority's scenario on how to proceed is in principle as follows: after the tax authority carries out the initial assessment of the situation, it invites executives from selected departments (such as procurement or sales) for questioning. In good faith, the executives provide simplified answers to well-aimed (or manipulative?) questions meant to determine how the parent company may influence the Czech company. After that the tax authority arrives at the simple conclusion that the loss-making Czech subsidiary is in fact in a position of a contract manufacturer or contract distributor, whose business risks are rather low and should therefore generate profit. The re-classification of a loss to a profit, even of a small percentage, usually results in the additional assessment of tax amounting to tens or hundreds of millions of Czech crowns, not mentioning the related penalties and default interest.

During the evidence proceedings and subsequent communication with the tax administration taxpayers may do well to recall the famous saying: *"Whatever you say can and will be held against you"*. It is wise to weigh one's words, both spoken and written, really carefully on apothecary scales and involve tax specialists from the very beginning of the entire process.

Tax administrators quite often use securing orders before the end of tax inspections. This legal concept embedded in the Tax Procedure Rules is meant to be used in cases in which there is reasonable doubt that a tax that is not yet due or has not yet been assessed will be irrecoverable or will be collected with considerable difficulty. Such securing orders are payable within three days; sometimes even immediately. Tax administrators are authorised to commence enforcement proceedings instantly, i.e. they may garnish bank accounts, receivables, real property or a car fleet. Our practical experience shows that tax administrators tend to use this tool increasingly often, not making differences between taxpayers.

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Corporate criminal liability goes back to the chamber of deputies

For four years it has been possible to prosecute corporate entities in the Czech Republic. During this time, prosecution has only been initiated in approximately one hundred cases. The proposed amendment to the Corporate Criminal Liability Act, which has now been returned by the senate to the chamber of deputies with amending proposals, aims to increase this number.

In 2014, when the government submitted the proposed amendment to Act No. 418/2011 Coll., on Criminal Liability of Corporate Entities and Proceedings against Them, it wanted mainly to change the concept for defining the criminal offences that a corporate entity may be liable for: the existing concept of enumerating eighty specific criminal offences was to be abandoned, meaning that a corporate entity could be liable for any offence, same as an individual, except for those explicitly excluded by law – offences whose commitment by a corporate entity is out of the question or that are inseparable from an individual. Another important feature of the proposed amendment was making the liability stricter by ruling out effective (active) remorse for all corruption crimes.

However, in the course of the legislative process, some rather questionable changes were made to the amendment. The first one is the introduction of corporate criminal liability for libel, which was not part of the original proposal. The change raised a wave of criticism, namely due to concerns regarding freedom of speech and media; opinions have been voiced that the introduction of the criminal liability for libel may threaten the existence of some mass media. On the other hand, a violation of regulations on the rules of competition, or a violation of regulations for the protection of competition was added to the list of offences where corporate criminal liability is excluded, without any proper reasoning.

Another criticised legislative rider is a provision allowing for exoneration, under which a corporate entity may be exempt from liability if it proves that is has made all efforts that could be reasonably required to prevent the offence. Some, including the Union of Prosecuting Attorneys, believe that the provisions defeats the whole idea of the act, and will lead to the impunity of large corporations when prosecuted in connection with corruption or public contracts.

The senate discussed the proposed amendment and has returned it to the chamber of deputies. The senate is against keeping the mentioned questionable provision in the act: in its opinion, companies should not be able to avoid criminal prosecution simply by having a code of ethics or anti-corruption policy in place. The amendment will now be discussed by the chamber of deputies again. We shall see what wording of the amendment will be finally passed – no further amending proposals are allowed at this stage, and the chamber of deputies will only be deciding between its version and the one proposed by the senate.

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Beneficial owners' register non-public

The amendment to the Act on Some Measures against Legalisation of Proceeds from Criminal Activity has passed to the first reading in the chamber of deputies. However, unlike under the original proposal, the register of beneficial owners is to be non-public.

The draft amendment prepared by the Ministry of Finance following the fourth AML Directive originally contained a provision under which the register obligatorily stating beneficial owners of corporations and other entities was to be publicly accessible. The draft currently being discussed by the chamber of deputies stipulates that the record-keeping of beneficial owners is to be established, within an amendment to the Public Registers Act. The records will be kept by register-keeping courts, however, unlike under the originally proposed version, they will not be public; the records will only be accessible to selected state authorities and liable entities as a part of client identification and check under the act. Possibly – and to a limited extent – information on beneficial owners could be provided to those who prove interest in connection with a previously committed criminal offence of accessoryship (in Czech: 'podílnictví'), accessoryship by negligence, money laundering, and money laundering by negligence and their underlying crimes, and the crime of terrorist attack.

The question remains what sanctions there will be to motivate corporate entities to disclose their beneficial owners. The act already regulates the administrative delicts of liable entities, and the proposed amendment further extends these. If, however, the corporate entity is not at the same time a liable entity under the act, it is unclear what mechanism would make it keep and maintain information on its beneficial owner as required by the newly proposed wording of Section 29b of the act, let alone have such owner registered according to the Public Registers Act.

At the moment, the proposed amendment is still expected to enter into effect on 1 July 2016, except for some areas where the proposed effective date is 1 January 2017. And, in connection with the amendment to the Public Registers Act and the Court Fees Act, the effective date is now being postponed, possibly to as late as 1 January 2018 (the original proposal by the ministry was rather more ambitious, proposing 1 January 2017). Of course, it is possible that other changes will be made to the proposal as it goes through the legislative process, not only regarding its effective date.

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Three novelties regarding investment funds

The package amending the Act on Conducting Business in Capital Markets and related laws moderates the requirements for investors in qualified inventors' funds and brings a more advantageous tax treatment for closed-end mutual funds.

The amendment containing changes to the Act on Investment Companies and Investment Funds, and to the Income Tax Act is now waiting to be signed by the president. Below we summarise three major changes brought by the amendment:

- The new regulation lifts the requirement of a minimum amount of the investment by a qualified investor to be EUR 125 000; even an entity investing the minimum of CZK 1 000 000 may thus become a qualified investor. In such case, the fund's administrator (or an appointed person) will have to confirm in writing that, based on the information obtained from the investing entity, it is reasonable to believe that the investment being made is in line with the financial background, investment objectives and professional knowledge and experience of the entity.
- The amendment also further specifies a number of issues concerning the operation of joint-stock companies with variable capital (SICAVs), introducing stricter limits of administrative sanctions. The amount of the sanctions corresponds to the current European trend of setting upper limits as high as possible.
- The change in the Income Tax Act includes closed-end mutual funds under 'basic investment funds', meaning that they, same as open-end funds, will qualify for the reduced 5% income tax rate, with no further requirements.

The act will enter into effect after having been signed by the president and promulgated in the Collection of Laws; therefore its effective date can be expected by June of this year at the latest. Changes to the Income Tax Act have a retroactive effect, meaning that the closed-end mutual funds may apply the lower tax rate already for the taxable period started in 2015.

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European Commission's plan to fight VAT fraud

On 7 April 2016, the European Commission published its VAT Action Plan, aimed to modernise the current VAT system. The VAT Directive, which was implemented 23 years ago, has not undergone any significant changes to date. At present, however, the VAT system setting is not flexible enough to be able to respond to current market issues such as digital economy requirements and the related increase in the volume of cross-border transactions.

The action plan focuses, inter alia, on the EU member states' greater autonomy when determining VAT rates and on the simplification of e-commerce rules. The EC's primary objective is to establish a VAT system that will primarily be:

- simpler (especially from small and medium-size companies' perspective);
- able to react to risks associated with the increased volume of VAT fraud;
- more effective in terms of VAT management in the new digital economy as well as in terms of the optimisation of expenses incurred for VAT collection.

The core idea of the action plan is to tackle tax evasion primarily caused by carousel transactions, where the VAT gap between expected revenue and revenue actually collected has been estimated by the EC at around EUR 50 billion a year. According to the European Commission, the regime allowing the exemption of cross-border supplies of goods and services from VAT represents a major weakness of the present system. The proposed VAT system abandons this concept and proposes to implement the destination principle to intra-EU B2B supply of goods. The proposed VAT collection system would thus derive from the existing One Stop Shop regime, i.e. working on a single administrative point principle, which has already been implemented for selected electronically-provided services. The system of exchanging information among the tax administrations of individual EU member states would have to be carefully developed for this purpose.

A potential change in the VAT rules might be welcomed by a number of Czech entities. VAT fraud may in practice enormously complicate the activities of a large number of customers as they are often subject to demanding requirements imposed by tax administrators, as we have learned from our experience with recent tax inspections. Where tax administrators suspect that the received supply (goods or services) has been part of VAT fraud, they commence proceedings in which taxpayers must prove the rightfulness of VAT deductions already claimed, which is a rather demanding process in practice. The tax administrators proceed in accordance with conclusions made by the Court of Justice of the EU that denies the entitlement to VAT deduction to entities that knew or might have known that they are recipients of a supply that was part of a VAT fraud. The tax authorities then evaluate in detail the VAT payer's internal risk management procedures. They try to ascertain whether the supplier checks a particular taxpayer carries out are effective enough to prevent the taxpayer from getting involved, even unintentionally, in the chain of supplies affected by fraud. If the taxpayer's measures do not satisfy the tax administration's demands, the taxpayer automatically loses the entitlement to VAT deduction. The new VAT system could therefore help reduce customers' risks when doing business with various entities.

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Public reporting by EU multinationals

The European Commission has officially presented its proposal to amend the EU Accounting Directive, introducing to multinational companies operating in the EU the obligatory disclosure of selected financial and tax information on their websites.

The 'public reporting' proposal comes soon after a political agreement has been reached by EU finance ministers on the non-public reporting of selected information to tax administrators, which in principle concerns the same multinational groups. Apart from providing the information to tax authorities, the companies affected will thus have to disclose the information also to the general public, although to a smaller extent.

Under the directive, multinational groups will be preparing a report containing information for all their companies, broken down by individual EU countries, and, with certain exceptions, in aggregate for all non-member states (information on activities in tax havens will have to be disclosed on a separate basis). The following information will be disclosed: description of business activities, number of employees, net turnover, profit before tax, tax (due and paid), and retained earnings.

The audited report shall be available in the Commercial Register, but also on the company's website, for at least five years. The responsibility for the reporting will be with the statutory body of the ultimate owner of the group, possibly also with the representatives of the subsidiary that meets the reporting duty instead of the ultimate owner.

The Commission expects the proposal to increase the tax transparency of multinationals, encouraging corporate social responsibility and a public debate on more efficient tax laws. Its long-term goal is for the companies to pay taxes in the country where they actually carry out their economic activities.

The public reporting has been criticised by representatives of entrepreneurs, arguing that the Commission goes beyond the scope of the OECD's recommendations. The Commission, however, denies the concerns about excessive administrative costs and the lower competitiveness of European companies. Since the proposed amendment to the accounting legislation only needs a qualified majority to be passed, not the unanimous consent by all member states, the implementation of public reporting is highly probable.

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CJEU on consumer credits, APR and insolvency proceedings

The Court of Justice of the European Union (CJEU) ruled on a prejudicial question referred by a Czech court concerning insolvency proceedings and consumer credits. According to its ruling, legislation that limits the debtor in bankruptcy from raising objections regarding a consumer credit is contrary to European Union law. Also, the annual percentage rate of expense (APR) must be calculated so that the total loan amount equals the total amount made available to the consumer, excluding the amounts immediately used by the lender to cover the costs.

By its ruling in case C-377/14 of 21 April 2016, the CJEU basically accepted the Advocate General's opinion of November last year. In response to the questions referred to it by the Regional Court in Prague, the following conclusions were made:

Some provisions of the Czech Insolvency Act are contrary to European law, as the Directive on Unfair Terms in Consumer Contracts (93/13/EEC) precludes such regulation. The national regulation does not allow the court in insolvency proceedings to examine, of its own motion (ex officio) the possible unfairness of a consumer credit contract, and allows the examination only for unsecured receivables, while the objections that a debtor may raise are strictly limited. According to the interpretation of the Directive, when assessing the fairness of the penalties imposed on the consumer for failure to fulfil the obligations under the credit contract, the court must consider the cumulative effect of all the penalty clauses in the contract in question, regardless of whether the creditor actually insists that they all be satisfied in full. If the national court concludes that penalty terms are unfair, it must establish all the consequences and exclude such terms from the contract, ensuring that the consumer is not bound by them.

Apart from the above, the Consumer Credit Directive (2008/48/EC) imposes the duty on national courts to examine (again, of their own motion), whether the lender's obligation to provide information stipulated by the directive has been complied with and to establish the consequences of an infringement of that obligation.

As regards the APR and its calculation, the CJEU confirmed that the total amount of the credit and the amount of the drawdown designate only the sums made available to the consumer, not those immediately used by the lender to pay the costs connected with the credit concerned. The opposite practice applied by the lender in this case, reducing the APR, was found illegal.

European law has priority over national legislation, therefore Czech courts must apply the above conclusions in their decision-making practice; of course, it would be desirable to amend the law accordingly. Consumer credit providers also have to respect the CJEU's conclusion as regards the manner of calculating APR.

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When does a tax inspection begin?

A recent decision of the Supreme Administrative Court in principle approved the submission of additional tax returns after the tax authority has informed the taxpayer by phone about an upcoming tax inspection. However, there is a variety of opinions on this topic among the SAC judges. The fourth panel of judges, perhaps unintentionally, defined the moment on which a tax inspection starts quite extensively in its Decision No. 4 Afs 238/2015.

In its decision the SAC primarily held that the tax administrator is authorised to issue a call to substantiate facts already during the pending procedure to remove doubt. The SAC also dealt with the issue of transforming the procedure to remove doubt into a classic tax inspection. In connection with this, commenting on an issue slightly outside the subject-matter of the dispute between the taxpayer and the tax authority, the SAC stated that a tax inspection is launched by any act, written or spoken, by which the tax administrator:

- specifies the subject-matter;
- the extent of an inspection;
- and performs specific checks during such an act.

According to the SAC, putting specific questions to taxpayers as well as making requests to provide specific documentation are deemed to be such checks.

The question therefore arises whether a mere phone call from a clerk of the tax authority informing the taxpayer that they will come to inspect *income taxes for the whole year of 2013* and that they will need to see a general ledger might not be the moment on which a tax inspection is launched with all its consequences, i.e. including the inability to file an additional income tax return. Former SAC decisions, however, do not hold the same broad view of the matter and there is no indication in practice so far that the approach to interpreting the moment of launching a tax inspection will change.

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In brief

- The Act on Reporting of Sales became effective on 13 April 2016 by its publication in the Collection of Laws. The first group of businesses operating in accommodation and meal services will begin reporting their sales electronically from 1 December 2016. The accompanying act implementing a one-off tax relief of CZK 5 thousand for individuals whose obligation to report sales electronically arose during the year and decreasing the rate of VAT on meal services (except for alcoholic beverages) from 21% to 15% became effective on the same date.
- The government approved green oil for farmers in animal farming, i.e. introduced a refund of excise duties on fuel for farmers involved in animal farming. The amendment will be in effect from July if approved by the parliament and signed by the president.
- The ministers of the coalition government did not agree on a motion filed by the senate to re-implement the payment of sickness benefits by employers in the first three days of an employee's sickness.
- The tax authorities will be allowed to waive penalties imposed on businesses for the failure to submit VAT ledger statements. The act containing this regulation will be subject to the third reading at the chamber of deputies.
- A draft amendment, according to which immovable property acquisition tax will be paid by buyers, has been released for its third reading at the chamber of deputies. The amendment is not likely to be in effect before September.
- The introduction of a European Professional Card by Amendment No. 126/2016 Coll. will allow easier recognition of the professional qualifications of foreigners who wish to work in the Czech Republic.
- Tax credits for second children have increased by CZK 100 and for third and any other children by CZK 300 a month. The tax credits are in effect retroactively from the beginning of this year. This change was introduced by Amendment to the Income Tax Act No. 125/2016 Coll. The increased tax credits may be used by payroll accountants for the first time in calculating wages for May 2016. The remaining part of the tax credit, for the January-April 2016 period, may be claimed within the annual settlement of tax on wages or within an annual income tax return. Find more information in this respect in the General Financial Directorate's Information.
- The EU member states have agreed that they will jointly aspire to create a tax haven blacklist by the end of summer in reaction to recent major discoveries regarding the Panama Papers.
- The Supplementary Agreement to the US-Czech Republic Social Security Agreement, extending its applicability to public health insurance, entered into effect on 1 May 2016.