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Recap of 2011 Tax Legislation Changes in Czech Republic

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The Czech Republic saw several legislative changes in 2011 concerning employers and employees that came into effect starting 1 January 2012. Below we briefly summarize the important changes.[1]

- **Rates**: The super-gross wage and the 15-percent personal income tax rate are to remain in force in 2012. (For more on the super-gross wage, see the following issues of *Flash International Executive Alert:* 2009-040 (20 February 2009) and 2011-183 (4 November 2011).)

- **Child Tax Credit:** The tax credit per child has been increased to CZK 13,404 (from CZK 11,604).

- **Tax Credit:** The tax credit per taxpayer rises to CZK 24,840 (from CZK 23,640).

- **Social Insurance on Shareholders, Board Members:** Shareholders working for their company and statutory representatives of limited liability companies are now subject to all components of social insurance (i.e., sickness, pension, and unemployment). So far they have only contributed to pension insurance. In addition, members of collective bodies of legal entities (board of directors, supervisory board) are also newly subject to social insurance; so far they have only contributed to health insurance. Employers are obliged to report to their local social security administration that such persons have assumed their offices if they are paid at least CZK 2,500 monthly from January 2012. This obligation also applies if they have not so far participated in social insurance as part of their contract for employment or their contract for the execution of an office as a statutory representative.

- **Rules for Approving Compensation of Statutory Representatives or Members of Statutory Bodies of Legal Entities That Have Also Concluded an Executive Employment Contract:** In accordance with the amendment to the Commercial Code, from 2012, remuneration paid to statutory representatives or members of statutory bodies of legal entities that have also concluded an executive employment contract is subject to the approval of the general meeting or supervisory board. .

- **Work Performance Agreements and Social Insurance Liability/Benefit:** For agreements on the performance of work, the existing working time limit has been increased from 150 hours to 300 hours per year. These agreements are also subject to social and health insurance if monthly income exceeds CZK 10,000. The employer will file a registration application or a notification of the commencement of employment retrospectively, i.e., in the month following the month in which an employee receives the agreed income and where his or her liability to pay insurance contributions arises. These employees can therefore also be entitled to receive wage compensation for the first 21 calendar days of their absence from work for a given period.

- **New Assessment Bases for Social and Health Insurance:** The maximum assessment bases for social insurance and health insurance will respectively be CZK 1,206,576 (48 times the average national wage) and CZK 1,809,864 (72 times the average national wage).

- **Companies Ability to Deduct Certain Remuneration:** Remuneration paid to the collective bodies of legal entities (members of the board of directors and supervisory board) are tax deductible for companies paying this remuneration.

- **Employer-Provided Meals:** Employers are obliged to reduce employee meal allowances for each individual 'free-of-charge' meal provided to an employee in the course of a business trip (both domestic and foreign) he or she takes by 25 percent to 70 percent (will vary according to the length of the trip)**.** Business-sector employers are, however, allowed to apply a lower reduced rate to meal allowances, but only if the policy concerning the rate and conditions for 'free of charge' meal allowances are explicitly stated (e.g., in a policy document) and communicated to the employee prior to the employee taking the trip. This is not without tax implications for employees: the difference will be regarded as taxable income.

- **Implications of Employee Leasing for Employers:** Employers will be allowed to borrow/lend employees without holding a permit to act as an employment agency, as the concept of temporary assignment of an employee to another employer has been restored in the Labour Code. Under the new rules, an employee can be assigned to another employer after six months of his or her employment with the hiring employer. The hiring employer is not allowed to receive any consideration for assignment of an employee to another employer, but can only charge payroll and travel expenses.

- **Penalties for Illegal Work Apply in Cases of Sham Business Activities:** The performance of employment on behalf of a sham business activity – known as the so-called 'Svarc system' – is now punishable as illegal work. This means that if the authorities find that an employer uses this Svarc system, the employer will bear tax and insurance consequences (as they do today), as well as penalties under the Act on Employment. The penalty imposed on employers has now doubled, i.e., up to a possible CZK 10 million (and at least CZK 250,000). In addition, a maximum penalty of up to CZK 100,000 can be imposed on an individual performing such illegal work (currently CZK 10,000).

Footnote:

1 Many of these changes were earlier described in the following issues of *Flash International Executive Alert*: 2011-193 (21 November 2011), 2011-184 (8 November 2011), and 2011-183 (4 November 2011).

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CZK 1 = USD 0.052
CZK 1 = EUR 0.0396
CZK 1 = GBP 0.0331

Mark Your Calendars!

KPMG TaxWatch Webcast -- Social Security for Expatriate Employees in China – Time to Get Ready!

1 February 2012 | 11:00 a.m.–12:00 p.m. EST (GMT -5)

During this webcast, we will provide an overview of the new rules and discuss:

- Registration requirements
- Practical advice on complying with the new rules
- Refund of contributions
- Chinese social security totalization agreements currently in effect, as well as those under consideration and how they impact the new rules
- U.S. income and social security tax implications of employer and employee contributions
- Tax equalization policy issues.

To register, Click here. Or go to: http://www.kpmginstitutes.com/taxwatch/events/social-security-for-expatriate-employees-in-china.aspx.

The information contained in this newsletter was submitted by the KPMG International member firm in the Czech Republic. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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