KPMG

Tax and Legal Update

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April 2016

Dear readers,

For some years, discussions have been taking place on the global stage about ways to counteract international tax avoidance. Much of the discussion has been through the forum of the OECD's so-called "BEPS" (Base Erosion and Profit Shifting) project. This has culminated in a package of proposals issued by the OECD, recommending that governments introduce new measures to combat tax avoidance through changes to their national laws as well as changes to bilateral tax treaties.

Such changes will also affect companies established or carrying on business in the Czech Republic. Following the BEPS recommendations, an EU Anti-Tax Avoidance Directive has been proposed, requiring EU member states, including the Czech Republic, to incorporate various new anti-avoidance measures into their domestic tax laws.

One of the proposed measures in the EU directive likely to affect many companies is a deductibility limit for borrowing costs, including interest expenses, of 30% of a company's EBITDA (Earnings before Interest Depreciation and Amortisation), or EUR 1 million if higher. The EU Parliament has proposed a change to the directive to make the EBITDA-based limit even tighter, from 30% to 10%. It is important to bear in mind that the restriction will apply to all of a company's borrowings, whether from related parties or from third parties such as banks. EU member states will be allowed (but not compelled) to relax the EBITDA-based limit in cases where the company belongs to a group of companies, if it can be shown that the general level of indebtedness of the company is no higher than that of the group to which it belongs.

It is still not absolutely certain if and when the EU directive will be adopted, and if so, precisely how it would be transcribed into Czech law. The EU Council Presidency has suggested adoption in 2016, with a view to enforcement at member state level as early as 2017. But adoption of EU tax directives can be delayed due to the requirement of unanimity across all member states, and it can be anticipated that various interested bodies will be actively lobbying to influence the final outcome. But there seems to be strong political will across many governments to tackle what is perceived to be widespread international tax avoidance. So sooner or later, in one form or another, it appears inevitable that the directive will materialise. For now, companies should ensure they understand what additional costs and complexity they may face, and what actions need to be taken.

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Eleven changes introduced by new amendment to VAT Act

A draft amendment to the VAT Act has been released for external comment procedure. The amendment, planned to become effective on 1 January 2017, introduces a number of changes. For example, it repeals special rules applicable to partnerships (formerly societies without legal personality), extends reverse-charge mechanisms and introduces a new taxable entity type: an unreliable entity. The draft is yet to be discussed in the chamber of deputies and the senate as part of the standard legislative process; however, you may find a list of major proposed changes below.

1. Society (formerly an association without legal personality)
The draft amendment proposes to repeal a specific regulation of VAT registration and administration of societies. New criteria have been set to reflect each individual partner to a society on a separate basis. Temporary provisions allow societies the possibility to apply the VAT Act in its wording effective until the end of 2016 in both 2017 and 2018.

Fight against fraud
2. Extension of a local reverse-charge mechanism
The Ministry of Finance is not about to let up in the effort to fight carousel fraud and proposes the application of a reverse-charge mechanism to domestic transactions with some other selected categories of goods and services, such as the provision of labour for construction and assembly work or various forms of forced delivery of property.

3. Unreliable entity
The new concept should help designate entities other than only VAT payers as unreliable if these show behaviour harmful to society and similar to unreliable payers. This should help prevent situations in which unreliable payers cancel their registrations on purpose, as the deregistration releases them from their status of unreliability and gives them a chance to register for VAT again without being designated as unreliable. When doing business with unreliable entities, the customer would be liable for unpaid tax similarly as in the case of transactions with unreliable VAT payers.

4. Extended liability for unpaid VAT
The draft amendment extends the scope of situations in which recipients of supplies will be liable for VAT unpaid by providers. This would, in particular, involve cases where consideration for a taxable supply is provided in a virtual currency such as Bitcoin, Litecoin or CzechCrownCoin.

Taxable supplies under specific circumstances
5. Supplies provided on a long-term basis
Taxable supplies provided over a period longer than twelve months where a relevant consideration connected with a duty to declare VAT is not made within the respective twelve-month period should be regarded as supplies effected no later than on the last day of each calendar year.

6. Duty to pay VAT on advances received
Following the Court of Justice of the EU's judgments, the draft amendment lists additional information that must be known about a taxable supply as at the date of receiving an advance so that a duty to declare VAT may originate before the supply is effected. The supply is deemed as sufficiently defined if the goods to be delivered or the services to be provided are known along with the VAT rate, the place of supply and the person effecting the taxable supply. The new definition will confirm the existing interpretation of the moment of reporting VAT on the sale of vouchers.

7. Re-invoicing of services
Where a VAT payer purchases services and re-invoices these to another person (and requires a consideration for such services from this person), the date of supply is considered to be the date on which a tax document is issued. This rule should apply where the payer does not re-invoice the supply through its balance sheet, does not claim a VAT deduction and does not increase the amount being re-invoiced.

Other changes
8. Adjusted definition of fixed assets
For fixed assets leased via finance lease arrangements, the lessee will have to monitor the purpose for which the leased assets are used to be able to make any adjustment to the entitlement to VAT deduction originally claimed (where necessary).

9. Shortages
Shortages as well as destroyed, lost or stolen business assets that have not been properly documented should not be treated as "uses for purposes other than the payer's economic activities", meaning that this does not result in the origination of the duty to declare an output VAT but of the duty to refund an input VAT originally claimed.

10. VAT refunds to tourists coming from countries outside the EU
To simplify and reduce the customs administration burden, the draft amendment introduces the possibility to electronically confirm goods moving from the EU when refunding VAT to tourists. The amendment also proposes an increase in the value of goods that may be purchased in one calendar day and whose VAT may be refunded to CZK 4 000 (incl. tax) a day.

11. Extended definition of a person liable to tax
In accordance with the new amendment, it is proposed to regard unit funds and sub-funds of investment funds as persons liable to tax.

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First VAT ledger statements – harvest time for tax authorities!

First VAT ledger statements have been submitted. The collected data are currently being reviewed by tax administrators for whom, according to the General Financial Directorate, it has been a real harvest! However, their procedures are many times quite non-standard. Payers should be careful what information they provide to tax administrators.

The first queries put by tax administrators to VAT payers show that the financial administration primarily focuses on differences reported in domestic supplies, in particular investigating situations where the customer claims a VAT deduction higher than the amount of output VAT reported by the supplier in respect of such a customer. The tax authorities usually aim at customers first, contacting them informally by e-mail or phone, or arranging an immediate inspection.

Claiming the obligation to provide necessary cooperation, tax administrators have been requesting additional information on the reported received supplies from taxpayers. Most often this involves copies of tax documents relating to received supplies, documents confirming payments for the effected supplies and other means of evidence supporting the receipt of taxable supplies (e.g. contracts with suppliers, proposals, acceptance and delivery reports, delivery notes, stock sheets, etc.). Until this moment the tax administrator's procedure does not differ from existing practice.

However, in addition to the requests for information discussed above, tax administrators have also asked for detailed information regarding the management of business risks associated with individual business partners, i.e. they want to know if the payer has reviewed whether a relevant business partner is an entity authorised to act on behalf of a supplier, etc. Tax administrators usually ask payers to provide necessary documentation and information as soon as possible, advising them on the concept of a liability for unpaid VAT and on the possibility of securing tax in a special manner by paying an outstanding VAT for the supplier.

Such an approach of the tax administration raises a number of questions, in particular regarding the procedural basis for informal communication as well as the extent of requested information, in the context of the origination of a liability for unpaid VAT or even an additional assessment of tax as a result of an unlawful VAT deduction.

From a procedural viewpoint, an informal type of communication between the tax authority and the payer has no basis in the Tax Procedure Rules. It is unclear what provisions of the Tax Procedure Ru-

les govern such communication and what are the rights inherent to VAT payers in such communication, i.e. questions arise as to whether payers may demand a certain time allowance for providing the requested information to the tax authority, in what extent they must do so and how this information will be used in the future. Moreover, when communicating on the phone, payers do not know whether the tax authority is making an official record of their conversation and what the manner of this record is.

On the other hand, there are certain advantages of this informal communication, which is a quicker tax assessment resulting in a quicker refund of any potential excess deductions where initially identified differences are in fact only inaccurately reported data in a VAT ledger statement.

Any informal communication with tax administrators regarding VAT ledger statements must therefore be approached with caution. To obtain a higher degree of legal certainty, it is possible to ask the tax authority to issue an official request to remove doubt under the Tax Procedure Rules. Payers should also be careful what information they provide to their tax administrators as all the provided information may be used during any additional tax assessment proceedings. If you need more information in this respect, please do not hesitate to contact us.

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GFD's view on gratuitous income

On the financial administration's website, the General Financial Directorate has published Information on Some Issues Regarding the Taxation of Gratuitous Income, confirming the conclusions presented at the March Coordination Committee of the Chamber of Tax Advisors and the GFD. In addition, it also gave its opinion on the tax treatment of other supplies such as capital contributions.

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Within the discussion in the Coordination Committee, the GFD affirmed its preliminary conclusions (for more details please see the previous issue of Tax and Legal Update). Taxpayers will be glad to hear that the financial administration at last has abandoned its strict view on the applicability of transfer pricing rules to gratuitous supplies between related parties. These rules will not apply to selected gratuitous relationships such as precarious / gratuitous loans or interest-free loans.

Unfortunately, the information disclosed by the GFD does not provide a comprehensive view of the matter, to a great extent only copying the conclusions presented at the Coordination Committee. In excess of these conclusions, the GFD explicitly confirms that, from an income tax viewpoint, a shareholder's contributions to a company (in any type of performance in favour of equity) and other similar transfers of assets from a shareholder to a company do not represent gratuitous income liable to income tax.

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Union Customs Code in effect soon

The new customs legislation, in effect from 1 May 2016, will bring a number of important changes to the customs administration. The Union Customs Code's primary objective is to enhance the effectiveness of customs proceedings.

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Major changes relate to the following:

- customs valuation:
  - abolishment of the first sale concept;
  - modification of the concept of including royalties in the customs valuation;
- centralised clearance (i.e. possibility to file a customs declaration with a customs office in a member state which has issued a permit whereas goods will be physically delivered to another country of destination);
- introduction of an obligatory customs deposit for individual customs regimes (except for entities having Authorised Economic Operator (AEO) status);
- communication with customs offices mandatorily in electronic format;
- validity of binding information about the goods' origin and tariff classification over a period of three years; provision of binding information on a chargeable basis;
- new definition of the exporter for customs documentation purposes – the exporter must reside in the territory of the EU.

The Union Customs Code aims to increase the effectiveness of customs proceedings. The centralised customs clearance and electronic communication is intended to have a positive impact on exporters' and importers' expenses, enabling the utilisation of advantages offered by information technologies and a single market. Simultaneously, however, entities may incur one-off input costs as they will have to obtain new customs permits or implement means for electronic communication with customs authorities.

The Union Customs Code will also affect Czech customs regulations. New legislation whose title is yet to be approved (the Customs Procedure Code or the Customs Act) is expected to enter into force by mid-2016.

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State aid for research and development – opening of Epsilon programme

The Technology Agency of the CR has published an invitation to tender regarding the provision of support for applied research and experimental development projects through the Epsilon programme. Companies and research institutions dealing with a project separately or in cooperation with others that may apply to this tender must prove that they will be able to co-finance this project from non-public funds.

The most important criteria for participating in this tender are as follows:

- period in which draft projects are accepted: 16 March–27 April 2016;
- period in which projects are to be commenced: projects commenced no earlier than on 1 November 2016 and no later than on 1 March 2017;
- period over which projects are implemented: a minimum of thirty six and a maximum of forty eight months;
- financial support:
  - maximum amount of support per one project limited to EUR 3 million (approx. CZK 81.5 million);
  - amount of support provided to a selected project is determined based on the evaluation of a draft project;
- amount of support provided per project - 60% of total eligible expenses; up to 80% for selected environmental projects;
- eligible expenses within this programme are operating expenses, in particular:
  - personnel expenses – wages and salaries as well as mandatory health insurance premiums;
  - expenses for sub-deliveries;
  - expenses directly associated with a project – expenses for the protection of intellectual property rights, operating costs, part of depreciation of tangible and intangible assets, travel expenses;
  - expenses indirectly associated with a project.
- project must generate one of below-mentioned results to be put into practice within three years of the end of the project:
  - industrial design, Gprot utility design – prototype;
  - functional sample, proven technology, patent;
  - therapeutic procedure;
  - specialised map with expert content;
  - certified methodology;
  - heritage protection procedure;
  - software, semi-operation.
- Other information is available at the Technology Agency's website.

We will be happy to discuss details of the Epsilon programme with you, taking into account your planned development activities.

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Changes in the Labour Code ahead

The Ministry of Labour and Social Affairs has published another proposed amendment to the Labour Code. If it passes through the legislative process, we are heading for significant changes, concerning mainly: the regulation of work from home, working conditions of top managers, agreements on work outside employment relationships, and holidays. Although the amendment also partly accommodates the needs of employers, its prevailing feature is the strengthening of employee protection.

The proposed amendment regulates work outside the employer's workplace in more detail. Upon request by trade unions, employers will have to compensate employees for any work-related expenses incurred while working from home. Setting up a system of documenting and compensating such expenses may be rather demanding for employers in terms of administration. Furthermore, employers will have to make it possible for employees to keep in regular contact with their colleagues, to prevent their social isolation. Another task employers will have to cope with is providing secure data transfer from the place of the employees' home office. The new, detailed regulation may not suit employers' practices, and may even discourage them from offering this popular scheme.

Another initiative of the trade unions involves the revision of agreements on work outside employment relationships. Under the proposed amendment, staff working under an agreement to perform work will be entitled to paid holidays. Regulations of guaranteed wages, the maximum length of shifts or obligatory breaks should apply to both types of agreements on work outside of employment – i.e. also an agreement to complete a job.

The proposed amendment also introduces a special 'top management' category, meaning managers with monthly wages of at least CZK 100000. Upon agreement with the employer, they could set their own working hours, but will have to forgo extra pay or wage compensation during impediments preventing them from working.

The ministry also plans to change the manner of holiday calculation. The relevant reference unit should now be an hour, rather than a week. The currently applied manner of determining the entitlement for holiday may be unfair to employees who work shifts of uneven length; however, most employers have been already recalculating the holidays so as to prevent any unfair shortening of holiday for these employees. Moreover, the new system would bring new duties even for employers whose current system does not cause any problems.

Apart from the above described changes, the amendment imposes the duty on the employers to take relevant measures to prevent employees' stress. Employers may benefit from the loosening of the strict rules as regards delivering notices to employees, or the simplification of collective bargaining where more than one trade union organisation operates at an employer. The wording of the proposed amendment may still change as it goes through parliament. Its effective date is planned for April 2017; the holiday regulations would change as of January 2018.

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Building savings of children or parents?

An amendment to the Building Savings Act is currently waiting to be signed by the prime minister, allowing money gathered in a building savings account kept in the name of a minor child to be withdrawn by the child's parents even without consent of the court. So far, both legislation and case law have considered such transactions to be outside the scope of ordinary matters as far as the administration of the minor's property is concerned.

Although a similar regulation applied already under the 1964 Civil Code, only the recodification, together with the Supreme Court rulings of 2014, made some building savings banks reconsider their previous benevolent attitude towards paying out money from minor children's building savings accounts. Even though in most cases the deposits are made by the child's parents, the money in the account is nevertheless considered the property of the child. Closing the account, or withdrawing a substantial amount, is not an ordinary matter, and the parent as the legal representative of the child needs consent of a court to do so. Otherwise the building savings bank might face the risk of litigation by the child once it reaches the age of majority, or by the other parent.

This approach is about to be changed – at least as far as building savings are concerned – by the amendment to the Building Savings Act. The bill contains a single section, stating that the termination of a minor participant's contract shall be viewed an ordinary matter within the administration of the child's property. However, this rule should only apply where the contract is terminated after no less than six years (after which entitlement to state support originates), and provided that all legal representatives of the minor agree to the termination of the minor's contract. According to the wording of the amendment, if these conditions are not met, the consent of the court will still be explicitly needed. The Building Savings Act should still provide that concluding or amending the building savings contract will be considered an ordinary matter within the administration of the child's property.

The amendment is to enter into effect when promulgated in the Collection of Laws. This means that as soon as it has been signed by the prime minister and published, building savings banks may proceed with changing their practices as regards the termination of building savings contracts.

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Another step to bring BEPS to life

Late March, the OECD published on its website a standardised electronic format for the exchange of CbC reports including a user guide for tax administrators.

Within the changes being put through in the area of transfer pricing, the OECD has approved a three-tiered approach to transfer pricing documentation. Apart from the masterfile and local documentation, there will be also country-by-country reporting ("CbCR"). In late March, the OECD published on its website the standardised electronic format for the exchange of CbC reports including a user guide for tax administrators.

The introduction of a uniform electronic CbCR format aims to ensure the smooth and efficient implementation of individual steps within the BEPS Action Plan. The CbCR shared across tax administrations will allow tax administrators in individual countries to obtain basic information on the structure of transactions of multinational corporations, global allocation of profits, taxes paid in individual states, and other important information.

The first exchange of CbC reports should take place in 2018 and concern information relating to 2016. CbC reporting would apply to multinational groups with annual consolidated profits exceeding EUR 750 million. The Czech state administration is now preparing legislation to implement CbCR in the Czech Republic; it should be ready by the end of 2016.

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European Parliament's standpoint on the ATA Directive

The Committee on Economic and Monetary Affairs of the European Parliament released a preliminary version of its report on the Anti-Tax Avoidance Directive being prepared by the Commission. The committee for instance proposes tightening the rules for the tax deductibility of interest by setting the maximum limit at 10% of EBITDA.

From the perspective of Czech taxpayers, the most important change proposed by the Committee is limiting the tax deductibility of interest expense. The Commission generally proposed limiting interest expenses (in excess of interest income) on aggregate borrowings from related and unrelated parties to 30 percent of the taxpayer's EBITDA (earnings before interest, tax, depreciation and amortisation). Should the interest expense be lower than the limit, the "unabsorbed" portion of EBITDA could be carried forward and used to calculate deductible expenses in future periods. The rule should not apply to financial undertakings.

The Committee on Economic and Monetary Affairs now suggests reducing the interest deductibility to 10 percent of EBITDA, and to limit the possibility of carrying forward the unabsorbed portion to two subsequent taxable periods. It also proposes that the general exception for financial undertakings should only apply for two years, after which it should be reassessed whether the reasons for the special treatment still exist.

Other changes proposed by the Committee concern for instance measures regarding hybrid instruments (they should cover also instruments used in third countries) or the taxation of controlled foreign companies within the parent companies' tax base (the modified conditions may lead to this rule being applied more often). The Committee also suggested expanding the scope of the directive to also cover issues of a permanent establishment, 'letterbox' companies, and a definition of transfer prices.

The report containing the final standpoint of the European Parliament is to be approved at its last plenary session in June. The European Parliament has only a consulting role in the process of adopting tax directives, therefore the EU Council does not have to abide by its proposals. Considering the previous representations of the finance ministers of individual EU member states, it is to be expected that at least a part of the changes proposed will be unacceptable for the Council.

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US Treasury objecting to the European Commission's approach

In February, an exchange of opinions took place between the U.S. Department of the Treasury and the European Commission representatives as regards the investigation of illegal state aid granted to multinationals.

In February, the U.S. Department of the Treasury published an open letter to the President of the European Commission. The letter responds to the recent developments in the EU, in particular in connection with investigations into illegal state aid provided to some taxpayers seated in the EU in a form of tax advantages.

In June and October 2014, the European Commission (EC), in cooperation with the Directorate-General for Competition (DG COMP), initiated inspections focusing on companies which had been granted tax advantages that were later assessed as illegal state aid. These included Apple, Starbucks, Fiat Finance and Trade, and Amazon. The U.S. Treasury voiced its concerns that the approach adopted by the EC creates disturbing international tax policy precedents. Therefore it urged the EC to reconsider its approach, taking into account the following objections:

1. The EC's imposition of penalties is retroactively based on a new and expansive interpretation of state aid rules.
2. The EC appears to be targeting US companies disproportionately.
3. The EC approach appears to target income that EU member states have no right to tax under established international tax standards.
4. The EC's and the DG COMP's approach could undermine US tax treaties with EU member states.

In its answer to the US Treasury, the EC emphasized the common goal of tax administrators – the BEPS agenda. It also pointed out that of the approximately 170 decisions ordering the recovery of illegal state aid from companies since 1999, only a handful had concerned US companies. It stressed that the EU state aid rules concern fair competition in the EU single market and do not put into question the US tax system or the tax treaties concluded by EU member states. Finally, it denied interpreting the rules extensively, and referred to the application of the arm's length principle which is a part of the transfer pricing system.

Let us see how this exchange of opinions between the US and the EU will end. In our opinion, a certain cooling-off of relations between the US and the EU regarding coordinated efforts to tackle aggressive tax practices is to be expected.

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Remission of penalties: case law offers other opportunities

The extended panel of the Supreme Administrative Court's judges has recently held that tax penalties do have the nature of punishment. The practical use of this judgment is now much easier to guess. In addition, a number of recent decisions of the SAC concerned the issue of penalties. The SAC's conclusions are favourable for taxpayers; it would therefore be wise to go through your files and search for older penalty payment assessments. The new case law may open the way for their remission on a retrospective basis.

One of the criminal law principles according to which, the SAC believes, tax penalties must also be applied is the imposition of a punishment pursuant to the law in effect at the time of committing the act. If we consider the regulation of remission of penalties to be part of the punishing rule, we may ask ourselves the question whether penalties relating to the period before 2011 might not be remitted even now, on the basis of regulations contained in the old Act on Administration of Taxes and Fees effective at that time, despite the fact that penalties were assessed later on, at a time when the remission of penalties was disallowed by the existing regulations.

It is also worth considering whether it is possible to claim the remission of penalties that were imposed through a payment assessment received a few years ago, challenged after that, while the decision on the appeal was received only recently or is yet to come. According the GFD's interpretations, under current legislation it is not possible to apply for the remission of penalties communicated through a payment assessment received before 2015, however, this approach may no longer be sustainable in the light of the above case law. As a matter of fact, the law links the possibility of remission of penalties to the moment when penalties originate and in one of its recent judgments the SAC held that penalties originate only when an additional payment assessment enters into legal force and not when it is issued. If you have currently received a decision about an appeal against additionally assessed tax, we believe it is worthwhile to consider potential steps to reduce the associated penalties, despite a number of unclear issues in this respect.

It can be expected that the financial administration will not welcome this new trend in case law with enthusiasm and will not really be willing to apply it in practice. It will be quite interesting to see how courts will proceed in this matter in their decisions.

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Company representation by executive and proxy holder acting jointly?

According to the High Court in Prague, it is not admissible for a corporation to be represented by a (member of a) statutory body acting jointly with a proxy holder. It seems that the professional debate on this topic has come to an end, and the companies that have been using this manner of representation will now have to reconsider.

After the civil law recodification in 2014, discussions started whether the approach as regards a statutory body (for instance an executive in a limited liability company – in Czech jednatel) acting jointly with a proxy holder would change. The truth is that under the old Commercial Code, this manner of acting on behalf of the company was not accepted (this has been cocluded by case law), even though some courts maintaining the Commercial Register did actually record it. As for this possibility under the new legislation, professional opinions were split: some still denied this manner of representing the company, while others were convinced that the new legislation allowed it. The latter group also believed it necessary to distinguish between a company with a sole executive, where the condition of the executive acting jointly with the proxy holder would constitute an unpermitted restriction, and a company with a general "four eyes" rule, meaning that the company may be represented by two executives acting jointly, or, as an alternative, by a proxy holder acting jointly with one of the executives.

The situation now seems to have been resolved by two recent judgements of the High Court of Justice in Prague (14 Cmo 184/2014 and 14 Cmo 576/2014). The court said a definite 'no' to this manner of company representation, declaring it contrary to legal regulations, and therefore null. Companies thus cannot have this manner of acting on behalf of the company registered in the Commercial Register, even though some have already managed to do so. Be that as it may, according to statements of some of the judges, the conclusions of the abovementioned judgements are also about to be supported by the Supreme Court. The contradictory decision-making practice of lower instance (registry) courts should thus soon be unified, in effect banning this manner of representation.

The companies who have registered in the Commercial Register their representation by a proxy holder acting jointly with a statutory body, as well as their contractual partners, should therefore carefully assess the possible risk of the nullity of such representation.

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In Brief

- The president has signed the Act on the Electronic Reporting of Sales, in effect from 1 December 2016. The new duty will first apply to those generating revenues from accommodation and meal services. Three months later the duty will be extended to those generating revenues from retail and wholesale.
- The president has signed the Act on International Cooperation in Tax Administration. Following EU requirements, an amendment unifies procedures applicable to the automatic exchange of tax information between individual states according to the new global standard. Legislation was amended to conform to the EU's efforts to combat tax evasion, allowing the exchange of information about accounts held by residents of other states.
- The act of preparing for tax evasion will again be considered a crime. An amendment to the Criminal Procedure Rules was approved by the chamber of deputies. The scope of crimes for which corporations may be liable will be substantially extended, according to an amendment to the Act on Criminal Liability of Corporations, which was approved by the chamber of deputies. However, the court will be allowed to release corporations from criminal liability in some cases.
- The government passed the draft amendment to the Insolvency Act dealing with problematic areas of insolvency proceedings. One of the intentions of the Ministry of Justice is to increase the level of protection against the practices of fraudulent debt consolidation agencies. Another key change is the restriction of malicious insolvency petitions: the judge will now have the discretion not to publish an insolvency petition in the insolvency register, and subsequently to reject it if it is deemed malicious. The amendment also seeks to simplify the entire process of debt discharge, transferring some of the courts' present agenda to insolvency trustees/receivers. The Ministry of Justice will also have a more efficient system of administrative sanctions available to apply against trustees/receivers who do not carry out their activities in accordance with the law.
- An act introducing the automated exchange of information on financial accounts is to be published in the Collection of Laws under No. 105. Under the act, financial institutions (including some trusts) will be obliged to collect information on clients who are residents in contractual states. The information will be reported to the Financial Administration of the Czech Republic on a regular basis. Accounts closing in the course of the year will also be reported, as well as any undocumented accounts. Some accounts will be excluded from the reporting by a decree to be published under No. 108. Both regulations will be effective upon promulgation, which means 6 April 2016. The information will be first exchanged in 2017, concerning 2016.
- The government has submitted to the chamber of deputies an amendment to the Act on Insurance and an amendment to the Act on Insurance Intermediaries (Print No. 750 and 751).
- The government has submitted an amendment to the Act on Auditors (Print No. 759) to the chamber of deputies. Following EU legislation requirements, the draft amendment primarily includes measures strengthening the independence of auditors and enhancing the quality of statutory audits as well as other measures such as the organisation of work when performing a statutory audit, the implementation of internal control systems in audit companies, fewer demands on the acknowledgement of an auditor's qualifications and the approval process across the EU.