

# GMS Flash Alert

2020-010 | January 15, 2020



## Czech Republic - Court Confirms Expat Social Security Income Tax Base

The Supreme Administrative Court decided a case against the Appellate financial directorate of the Czech Republic involving a standard employment structure in which an employee assigned from Japan to work in the Czech Republic was paid partly by his Czech (economic) employer, and partly by his formal/legal employer in Japan.<sup>1</sup>

The Supreme Administrative Court decided that since the employee only performs one job under an employment contract with a single formal/legal employer, the administrative dividing of the costs between the two employers sharing the cost is not relevant in calculating the employee's income tax base.

---

### WHY THIS MATTERS

The remuneration of expatriates who are covered under the social security laws in the countries of their formal/legal employers is increased by "fictitious" premiums, i.e., the social security and health insurance premiums that they would have paid had they been employed in the Czech Republic, when calculating the employee's income tax base. Employers of these expatriates need to be aware of this obligation and calculate the employee's income tax base correctly.

---

### Further Details

The employee from Japan was not covered by Czech social security and remained covered by health insurance and social security in Japan, under Japanese social security law. In determining the employee's income tax base, the employers increased his remuneration by "fictitious" premiums, i.e., the social security and health insurance premiums that he would have paid had he been employed in the Czech Republic. The social security premium was only calculated on one maximum assessment base.

The Czech tax authority first accepted this approach but later, in the course of the employee's assignment, started to challenge it. The tax authority asserted that the money paid from the Czech Republic and Japanese employers

constituted two separate incomes from employment and should be increased by the fictitious premiums on two separate bases. This proposed treatment would have resulted in applying a separate maximum assessment base to each employer's calculation. The case was brought before the Supreme Administrative Court.

Referring to an explanatory report to the law, the Supreme Administrative Court confirmed that income has to be increased by statutory insurance premiums in the same manner as if the taxpayer had been covered by Czech social insurance legislation. However, the employee only performed work under one employment contract concluded with a single formal/legal employer, and the manner of dividing the costs between that employer and the economic one was not relevant for calculating the employee's income tax base.

The court also pointed out that the tax authority changed its approach without a sufficient explanation, after a period of not challenging the taxpayer's approach.

## FOOTNOTE:

1 [Decision](#) (in Czech) of the Supreme Administrative Court no. 4 Afs 164/2019 – 63 (27 September 2019).

\* \* \* \*

## Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in the Czech Republic:



**Jana Fuksová**  
Tel. +420 222 124 319  
[jfuksova@kpmg.cz](mailto:jfuksova@kpmg.cz)



**Iva Krakorova**  
Tel. + 420 222 123 837  
[ikrakorova@kpmg.cz](mailto:ikrakorova@kpmg.cz)



**Anna Kottasová**  
Tel. + 420 222 123 81  
[akottasova@kpmg.cz](mailto:akottasova@kpmg.cz)

**The information contained in this newsletter was submitted by the KPMG International member firm in the Czech Republic.**

© 2020 KPMG Ceska republika, s.r.o., a Czech limited liability company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

[www.kpmg.com](http://www.kpmg.com)

[kpmg.com/socialmedia](http://kpmg.com/socialmedia)



© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

The KPMG logo and name are trademarks of KPMG International. KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever. The information contained in herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

*Flash Alert* is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.