

# GMS Flash Alert

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## Czech Republic - Surprise Judgment from Court on Taxing Securities Sales Income

The Supreme Administrative Court (SAC) in the Czech Republic opined on how individuals should proceed when determining the tax base for the sale of securities in foreign currency (2 Afs 4/2019-35 issued in December 2019).<sup>1</sup> The court held that the Income Tax Act gives taxpayers the option to choose the manner of determining the exchange rate, but not the time of the valuation of the expense/income. So far, the approach generally applied in practice has been that expenses were converted using an annual exchange rate applicable in the year of the sale of securities, rather than the exchange rate applicable in the year of their acquisition.

### WHY THIS MATTERS

Taxpayers who will be reporting income from the sale of securities in foreign currencies in their tax returns should utilise the new approach as recently opined by the SAC. Taxpayers who in previous tax periods reported income from the sale of securities in foreign currencies may consider filing supplementary tax returns in respect of non-statute-barred fiscal years. (The time limit for filing a supplementary tax return in the Czech Republic is normally three years from the date when the ordinary tax return for the year concerned had to be filed.)

### Further Details on the Case

In the case that the court ruled on, a taxpayer purchased securities in U.S. dollars in 2011 and sold part of them in 2012 – within six months from their acquisition – also for a price in U.S. dollars. For the purpose of determining the tax base, he converted the income (proceeds) from the sale using the annual exchange rate applicable for 2012; against this income, he deducted the expenses (costs) calculated using the same exchange rate.

The tax office administrator disagreed and converted the expenses (costs) of the securities' acquisition using the annual exchange rate for 2011. This resulted in a reduction of the taxpayer's expenses and assessment of additional tax (as the



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

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