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TAX FRESH

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WHAT'S NEW IN TAXES IN 2019

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Dear business partners,

As you might have already learned, there have been relatively significant amendments to some tax laws that came into effect on April 1, 2019. Therefore, in this issue of our Newsletter, we would like to introduce you to some of them that we believe are most important.

With best regards,

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Partner

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Partner

NEW REPORTING DUTY FOR TAXPAYERS

In connection with the entry into effect of the amendment to the Income Tax Act, we again draw your attention to the introduction of the new reporting duty for taxpayers on exempt income or income for which international agreements prevent taxation in the Czech Republic.

Payments abroad being subject to withholding tax are to be newly reported by the payers, even if the payments are tax exempt or non-taxable due to a corresponding double taxation treaty.

The payer will be obliged to make a payment notification within the time limit for withholding tax purposes through a special form of the Ministry of Finance. The taxpayer will not be obliged to make the notification only if it is an exempt income or an income that, per the international treaty, is not subject to taxation in the Czech Republic, providing the aggregate value of the given type of income paid to one non-resident does not exceed CZK 100,000 in a given calendar month, or it is not one's income exceeding CZK 10,000 resulting from an agreement to complete a job or an income from depending activity not exceeding CZK 2,500.

Compared to the current practice, taxpayers will, among other things, also report dividends, interests and royalties paid to foreign parent companies or other foreign entities that are exempt from withholding tax.

The new notification obligation will not apply to revenues from which the taxpayer was obliged to collect / withhold tax before 1 April, 2019.

A taxpayer not meeting this non-monetary obligation faces a penalty of up to 500 thousand CZK.

Finally, we add that the tax administrator may in selected cases, based on the tax payer´s request, exempt the taxpayer from his reporting obligations for the maximum period of 5 years.

CHANGE IN VAT CALCULATION

The amendment to the VAT Act effective from 1 April, 2019 changed the VAT calculation in cases where a taxable amount also includes VAT.

In simple terms, the new method of determining the tax base from the amount including the tax is calculated as the total amount for a taxable transaction including tax divided by 1.21 (in the case of the basic tax rate) or 1.15 or 1.1 (in the case of applying the first or second reduced tax rate). The tax itself is then calculated as the difference between the total taxable transaction amount and tax base amount.

The aforementioned VAT calculation method is more accurate than the previous tax calculation method. So far, the tax has been calculated first through a special coefficient, then the tax base was calculated as the difference.

According to the transitional provisions on the amendment to the VAT Act, the tax calculation for the supply of goods and services may follow the current tax calculation method till the end of September 2019. In this context, we recommend that you verify with your accounting software provider or billing system provider that the tax and tax base calculation methods will take into account the aforementioned change from at least 1 October, 2019.

ADJUSTMENT OF VAT DEDUCTION FOR MAJOR REPAIRS

The amendment to the VAT Act introduced a new obligation for VAT payers to monitor significant real estate repairs. A major repair is a repair whose value of all the received taxable goods or services exceeds 200 thousand CZK without VAT.

If, within the period for adjusting VAT deduction (10 years), the exempt supply of the real estate for which the major repair was completed, is done, the taxpayer is obliged to adjust the originally applied tax deduction.

We add that the aforementioned obligation to adjust the tax deduction for major repairs does not concern to a subsequent VAT exempt lease of the real estate property in question.

According to the transitional provisions of the amendment, if a major repair commenced before 1 April, 2019 and was completed after that date, the VAT payer may decide whether or not to adjust VAT deduction in the case of subsequent VAT exempt real estate property provision.

CHANGE IN THE PERSON REPORTING VAT IN CASE OF DELIVERY OF GOODS WITH INSTALLATION

The amendment to the VAT Act newly stipulates from 1 April, 2019 that persons not established in the Czech Republic, nevertheless registered for Czech VAT, will generally have to tax the provision of goods with installation or assembly in the Czech Republic when selling to Czech VAT payers (unless it is a domestic reverse charge).

Per the existing rules, the VAT in this transaction is always declared by the customer – who is registered for VAT or is an identified person in the Czech Republic, regardless of whether the supplier, a person not established in the Czech Republic, is registered for VAT in the Czech Republic or not.

Furthermore, per the transitional provisions on the tax amendment, the tax administrator will cancel the VAT registration of a VAT payer who is not established in the Czech Republic and who became a VAT payer before 1 April, 2019, if this VAT payer submits his request for VAT registration cancellation within 3 months of the effective date of this amendment and if from the date of entry into effect of this amendment, he only completes taxable supplies whose tax must be declared by a person who receives it, or in the case of goods that this taxpayer would deliver as an intermediate person for a buyer if the taxpayer was not registered for VAT in the Czech Republic.

DELIVERY OF CORRECTIVE DOCUMENTS

The amended provision of Sec. 42(5) and (6) of the VAT Act concerning corrective docu-ments is a positive change for VAT payers. Per the original version of the VAT Act, the payer could only reduce his output tax when his counter-party received a corrective tax document. Proving one's receipt of such a document was not easy, there were time delays before the counter-party confirmed to the VAT payer that it had received the corrective tax document.

The amended version of the Act in the area of corrective documents defines the duty of the VAT payer to make efforts that can reasonably be required of him to get the corrective tax document into the recipient's disposition. Furthermore, it states that in the case where the tax base is reduced, and the VAT taxpayer is obliged to issue a corrective tax document, the tax base correction as a separate taxable performance shall be stated in the tax return for the tax period **in which VAT payer made his effort that may reasonably be demanded of him, that the tax document is got in the disposition of the performance recipient.** Thus, under the current amended law, it is no longer the duty of the VAT payer to prove that a corrective document has actually been delivered.

DOMESTIC REVERSE CHARGE

According to the VAT Act wording before its amendment of 1 April, 2019, VAT pay-ers were permitted, when they were not sure whether a given supply falls under the domestic reverse charge (mode of transferring tax duty to a Czech customer), to apply so-called correctness fiction principle – when such a supply was identically de-clared as the reverse charge by both the supplier and customer, and this procedure has not been challenged by the tax administrator. However, before the VAT Act amendment, this procedure was only permitted **for selected performance types** (e.g., construction and installation works). The introduction of this procedure was positive for the VAT payer, as there were uncertainties as to whether or not to apply the reverse charge regime to a number of transactions. The risk is faced, in the case of misapplication of the standard tax mode by the supplier, on the part of the customer, for which the deduction of incorrectly stated VAT on a tax document is questioned.

According to the explanatory memorandum to the VAT Act amendment, it may be difficult to co-rrectly classify goods or services (in the customs tariff or production classification) and, there-fore, **after the amendment, the correctness fiction principle may be also applied to any perfor-mance** subject to domestic reverse charge. In case the supplier and customer agree, and apply the reverse charge principle, the tax administrator will not question this mode. However, the correct-ness fiction principle may only be applied when there are no reasonable doubts about the given performance classification.

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