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TAX FRESH



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Dear business partners,

The first issue of this year's Tax fresh brings updates associated with amendments and tax obligations the taxpayers are obliged to follow as of January 2020 in the Czech Republic. Some amendments also concern changes relating to activities conducted abroad.

Should you wish to get a deeper insight into some of these matters, we would be happy to clarify the matters to you.

Best regards



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MAXIMUM AMOUNT OF DEDUCTIBLE LUMP-SUM EXPENDITURES FOR SELF-EMPLOYED AND LESSORS IN 2019 INCOME TAX RETURN



When assessing their tax liabilities, the natural persons with income from their undertakings or rent may exercise their right to deduct expenditures actually incurred or opt for so-called lump-sum expenditures. The amount of the lump-sum expenditures is limited by the Czech Income Taxes Act. In case self-employed taxable person decides to exercise the lump-sum expenditure deduction, there is no obligation to disclose the expenditures actually incurred during the tax inspection.

For 2019, as opposed to 2018, the maximum amount of lump-sum expenditure deduction doubled. The lump-sum expenditures against the income from agricultural production, forest and water management and artisanal activities could be exercised in an amount of 80% of total income with a maximum deductible amount CZK 1.6 million. The amount of lump-sum expenditures deduction in case of the income from non-artisanal trade activities is 60% with a maximum deductible amount CZK 1.2 million. The amount of the lump-sum expenditures deduction against the income from other entrepreneurial activities is 40% with a maximum deductible amount CZK 800,000.

Natural persons with income from rental of their property could also apply a lump-sum expenditures deduction from such income; the amount of the deduction is 30% with a maximum deductible amount CZK 600,000.

In case the taxable person exercises the lump-sum expenditures deduction, there is no limitation on the use of tax credit applied on their spouse and children in 2019.

Their way of exercising the right to deduct expenditures actually incurred or lump-sum expenditures for particular years could be changed (from actually incurred to lump-sum or vice versa). The change can have some consequences in relation to the adjustments in tax base. Prior to your making the decision to change the way of exercising your right to deduct the expenditures, we would recommend consulting your steps with our tax adviser.

ADVANCES FOR HEALTH INSURANCE AND SOCIAL SECURITY INSURANCE FOR SELF-EMPLOYED FOR 2020



As of 1 January 2020, in the light of the increase of average salary in the Czech Republic, changes in the amount of the minimal advances in health and social security insurance for self-employed persons will apply. The minimum advance for persons for whom their business activities are their core activities is CZK 2,352/month for health insurance and CZK 2,544/month for social insurance. In case of businesses that fall into the category of non-core activities, the minimal monthly advance for social security insurance is CZK 1,018.

The new amount for health insurance is to be paid as of January 2020. Social security advances can be adjusted after 2019 tax return is submitted.

DOMESTIC TRAVEL ALLOWANCES IN 2020 (THE CZECH REPUBLIC)



Shall the employee use other than company car for company business trip, the reimbursement for using such vehicle is paid by the employer for every 1km of the trip – a rate for the basic reimbursement plus a reimbursement for fuel. The amount of the reimbursed costs is set according to a decree issued by the Ministry of Labour and Social Affairs for a particular year (for 2020 Decree No 358/2019 Coll., hereinafter as the "Decree No 358").

The minimum basic rate for reimbursement of the use of other than company vehicle for 2020 is CZK 4.20/1 km (minimal rate for two-wheeled vehicles and tricycles is CZK 1.10/1 km).

In case the employee does not prove the costs of the fuel with a receipt for fuel purchase, the reimbursement for fuel is assessed in accordance with the average price of fuel as stated by the Decree No 358 (see the chart below).

Fuel Type	2020 Remuneration per 1l in Accordance with Decree No 358
Petrol 95 octane	CZK 32.00
Petrol 98 octane	CZK 36.00
Diesel	CZK 31.80
Electric car	CZK 4.80/1 kW

Decree No 358 further addresses the changes in the amount of domestic meal allowances relating to business trips. The meal allowance daily amount applies to each calendar day of a business trip and differs in accordance with the duration of the business trip during the particular calendar day:

Duration of Business Trip	New Meal Allowance Amounts for Businesses:
5-12 hours	CZK 87-103
12-18 hours	CZK 131-158
18 hours and longer	CZK 206-246

FOREIGN BUSINESS TRIP MEAL ALLOWANCE AMOUNT FOR 2020



The employee is liable to a foreign currency meal allowance when on a business trip abroad. The basic rates for foreign trip meal allowances are stipulated by the decree of the Ministry of Finance (applicable decree for year 2020 is Decree No 310/2019 Coll.).

In 2020 there is an increase in the rates of the meal allowances relating to 23 countries (including Australia or USA). Changes applicable to European countries include Andorra, Bosnia and Hercegovina, Denmark, Ireland, Iceland, Italy, Luxemburg, Malta, Norway and Spain. The rates for other European countries remain on the same level as in 2019.

SINGLE FOREIGN EXCHANGE RATE FOR 2019



records.

The Guideline **D-42**, issued by the General Financial Directorate, stipulates a single foreign exchange rate for 2019. The single foreign exchange rate for the conversion of foreign currency to CZK can be applied by taxable persons who do not keep accounts, i.e. the persons who apply lump-sum expenditures deduction, or natural persons who keep tax

Single foreign exchange rate is applicable for various foreign currencies. In case of conversion of EUR the rate is **CZK 25.66/1EUR**, for USD the rate is **CZK 22.93/1USD**.

REAL ESTATE TAX



As well as in the previous year, the due date for submitting the real estate tax return is 31 January 2020. The tax return shall be submitted to a competent tax administrator (local competence lies with the tax authority in whose territorial scope the real estate is located). The taxpayer does not submit this tax return if they have already submitted it for some of the previous tax periods and no change has occurred in the circumstances relevant for determining the tax payable.

In case of the changes in ownership rights or other rights relating to the immovable property in 2019 or, possibly, if other decisive circumstances affecting the assessment of the real estate tax occurred in 2019 (e.g. a change concerning the original entry in the Cadastre), the taxable person is obliged to submit the real estate tax return/partial real estate tax return. The same procedure applies to houses and flats that newly received a final building approval or are newly in use despite not being finished.

The tax is assessed for the particular taxable period according to the state as at 1 January 2020. We would like to add that in 2019 there were not any significant changes relating to the real estate tax. At the very end of 2019, the amendment to the Act on Real Estate Tax brought smaller change relating to the tax exemption applicable to the land plots with specific landscape features – see Section 4 (1) (k) of the Real Estate Tax Act.

The real estate tax exemption newly applies to the land plots where there are specific landscape features. The tax exemption relates to the extent and character of the specific landscape feature i.e. group of woody species, treelines, riparian woody vegetation or wetland – such landscape features must be listed on the list of ecologically rich landscape features kept by the Agricultural Intervention Fund.

We are ready to draw up 2020 real estate tax return for you.

ROAD TAX



We would like to remind you that the due date for submitting the tax return relating to the road tax is 31 January 2020. The obligation to submit the 2019 road tax return applies to persons or entities that own a vehicle where tax liability arose or continued (possibly where tax liability ceased). Compared to the previous year, there were no changes relating

to the Road Tax Act, neither in substantive alterations to the subject-matter of the road tax, nor in the road tax base or road tax rate.

The road tax declared by the taxpayer (possibly, the difference between the level of the tax and the paid advances) must be paid within the due date for submitting of the road tax return, i.e. by 31 January 2020.

CHANGES IN THE VAT WITH HEATING AND COOLING SUPPLY



As of 1 January 2020, the first reduced VAT rate of 10% applies to heating and cooling supply. Detailed information on clearing of advances for heating and cooling supply before 1 January 2020 could be found on the website of General Financial Directorate: www.financnisprava.cz.

The supply of hot water retains its 15% VAT rate.

VAT FOR LEASING APPLICABLE AS OF 1 JANUARY 2020



As of 1 January 2020, an amendment adjusting the tax regime applicable for leasing agreements or agreements on operating lease applies. In case the agreements contain stipulations on the transfer of ownership of the leased object after the end of the agreement or in case the stipulations on the possibility of the later transfer into private ownership will appear to be economically feasible option (very low purchase price), such agreements will be considered from the point of view of the VAT as supply of goods. That means that the VAT from the value of the lease instalments shall be paid by the lessor for the period when the object of the lease was handed over to the user at the beginning of the contractual relationship.

The lessee will receive an invoice with the calculation of the total VAT at the beginning of the lease; following the standard conditions the lessee is entitled for VAT deduction from this invoice.

Agreements concluded before 31 December 2019 will phase out while following the previous regime conditions.

NEW ACT ON INTERNATIONAL COOPERATION IN TAX ADMINISTRATION



A proposal of an act implementing the EU directive on the mandatory automatic exchange of information in the field of taxation (EU Directive DAC 6) is part of the current legislative procedure. The Directive implements the obligation to inform the tax administrator on the selected cross-border arrangements affecting the tax (except the area of VAT, excise tax and duty and except the obligatory social security insurance). The aim of this act is to acquire an awareness of an aggressive tax planning and practices and thus prevent tax avoidances.

The reporting will be subject to the cross-border arrangements if:

- a) **The main advantage**, or one of the main advantages, **is acquiring tax benefit** and, at the

same time, one of the hallmark indications is present (e.g. condition of confidentiality relating to tax benefit, intermediary's remuneration derived from a tax benefit, substantially standardized documentation or structure of loss buying).

- b) One of the **hallmark indications** that does not require the acquiring of tax benefit **is present** (e.g. existence of deductible cross-border payment made between two or more associated enterprises where the recipient is resident for tax purposes in the third-country included in a list of non-cooperative countries or if there is an existence of relief from double taxation in more jurisdictions).

The relevant taxpayer, who is subject to cross-border arrangements and with whom the reporting obligation lies, is then obliged to report within 30 days beginning on the day after the reportable cross-border arrangement is made available for implementation, or is ready for implementation or when the legal step in its implementation has been made. In accordance with cross-border arrangements, all relevant documentation shall be archived for a period of 10 years.

Within the EU, a new reporting obligation lies with intermediaries who assist in cross-border arrangements (e.g., tax advisers, attorneys-at-law, notaries or auditors), or directly to taxpayers – if the intermediary shall comply with a condition of confidentiality. Nonetheless, in such cases the intermediary is obliged to provide the taxpayer with an information that the taxpayer is subject to reporting obligation.

The reported information will consequently be shared between the financial authorities in other EU member states. The act shall come into force as of 1 July 2020. Intermediaries and relevant taxpayers shall file the information on reportable cross-border arrangements implemented between 25 June 2018 and 30 June 2020 by 31 August 2020 at the latest.

Persons failing to comply with the reporting duty will face a penalty up to CZK 500,000.

WE WOULD LIKE TO BRING YOUR ATTENTION TO THE CHECKS RELATING TO “A1” FORMS WHEN TRAVELLING ABROAD FOR BUSINESS



European coordination regulations are legally binding regulations directly applicable in all EU member states, EEA states and also Switzerland, where the scope of application of the regulations newly applies. The regulations treat social and health insurance as well as the employer's liability for their employees (hereinafter as “social insurance”). The regulations concerned are the Regulation of the European Parliament and of the Council No 883/2004 on the Coordination of Social Security Systems and Regulation of the EP and EC No 987/2009, which sets implementing rules of the Regulation 883/2004. Both regulations were amended by EP and EC Regulation No 465/2012, which adjusts the rules for determining the jurisdiction for social security regulations in case of parallel employment in more member states.

Coordination regulations make the migrating person fall within the scope of social security legal regulations of one member state only.

The determination of the scope of legal regulations of one member state is verified with a use of A1 Form, which is obligatory for every employee conducting a business trip abroad (even a short-term business trip). The employee shall be in possession of such form while travelling. Nevertheless, acquiring this form or having it issued is rather a complicated process depending on the proper completion of a so-called common application of the employer and employee and application of the right exception; only then an issuance valid e.g. for two years is possible.

EU and EEA member states tightened up checks of these forms and file high penalties in case the employees fail to show the form while on a business trip. With respect to this fact we recommend you apply for the form at your relevant social security office as soon as possible.

We would be happy to assist you with filling out of the applications that would lead to acquiring of the A1 forms. If you were interested, please, do not hesitate to contact our office.

PROVIDING SERVICES ABROAD – STRICT ADHERENCE TO THE RULES



With respect to the Directive of EU and EP No 2018/957 of 28 June 2018 amending Directive No 96/71/ES concerning the posting of workers in the framework of the provision of services, the Czech Republic is obliged to implement this Directive into its legal framework. Sometimes, an update of the directive on the posting of workers is being discussed. Even if the Czech Republic does not manage to apply the amended Directive into its legal system, the Directive will directly come into force as of 30 July 2020. Two of the preceding directives have already been effective for many years; currently, there are very frequent reports of the more frequent and stricter inspections of their adherence.

The directives on the posting of workers apply in all **28 EU member states** and on the basis of the decision of the EEA joint committee No 37/98 also in posting the workers from and to EEA contracting states, i.e. **Norway, Liechtenstein and Iceland**. On the basis of the agreement signed between the EU and **Switzerland** on 21 June 1999, the rules of the directives also apply to Switzerland. The rules derived from the above-mentioned directives will apply in cases when an enterprise residing in some of the member states posts their workers to the territory of another above-mentioned state as part of the temporary provision of services.

Generally, Czech companies always have to treat the below-stated areas related to work performance in case they post their workers to a host country:

- maximum length of the working hours and minimal length of rest
- minimal length of holiday per calendar year
- level of minimum salary including the rates for overtime with regard to legally binding collective agreements, which is part of the type of service or business conducted by the relevant company
- work health and safety
- equal treatment for men and women and non-discrimination provisions
- safety of pregnant women, children and youth

The employer shall provide their employees with working conditions and pay them wages, which are more advantageous for them. That means if working conditions in the employee's home country are more favourable than working conditions abroad, the employer shall adhere to working conditions of

the home country and vice versa. From July 2020, the conditions will become stricter and will secure not only minimal wages, but also a so-called bonus, including all obligatory components that constitute such bonus.

Exceptions from applying the above stated minimum working conditions

It would be advisable to know what kind of exceptions the directives on the posting of workers state and know when working conditions of the host member state need not be adhered to. See below for the most frequented cases:

The case of the initial assembly/installation of goods – obligatory exception

In case of the initial assembly and/or installation of goods, when the assembly or installation of goods constitute a substantial part of the agreement on supply of goods and such work is deemed essential for placing the supplied goods in service and if the installation or assembly is carried out by experienced and/or specialized workers of the supplying company, there is an exception (applicable for a maximum of 8 days) from complying with the minimum length of holiday per calendar year and minimum wage, including the overtime rates.

Please, beware that this exception does not apply to activities connected with building work as listed in the annex of the directive on the posting of workers performing building work, repairs, upkeep, alteration or demolition of buildings and particularly work such as digging activities, earthmoving, construction work, assembly, disassembly of prefabricated components, renovation, repair, dismantling, demolition, painting and cleaning services as part of the maintenance and sanitation, etc.

Limited period of posting – one month – optional exception

In cases when the period of posting of the employee to the host member state does not exceed one month, in the course of the taxation period, the host member state's labour law conditions relating to minimum wage and surcharges for overtime do not need to be adhered to. However, this must be specified in national legislation or collective agreements which are universally applicable.

Small-scale work and adherence to a minimum length of holiday per calendar year – optional exception

The host member states may decide not to apply rules concerning the minimum length of holiday per calendar year with employees posted to their state due to their work being referred to as small-scale work. The directive does not define the work of "small-scale".

The legal regulations of the given member state would always be binding and should be adhered to. A particular member states also have given amounts of the fines when companies or natural persons do not comply with their regulations. Unfortunately, the neighbouring states of the Czech Republic file rather high fines when legislation is breached. The Czech company may be subject to criminal proceedings when breaches occur.

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