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TAX FRESH



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Dear business partners,

We believe you are enjoying well-earned summer days full of rest and relaxation. However, there is no such thing as the summer season in the area of taxes; for that reason, we hereby offer to you a range of interesting topics you should not miss.

In this summer issue of our Newsletter you can find information on the social security premium discount for part-time employees or on the free provision of low-emission cars to employees. Other topics include interesting case law acts by the Supreme Administrative Court, which has given its opinion on the tax evergreen of the journey log or on the highly interesting topic of cryptocurrencies.

We hope you will find them interesting.

Best regards



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SOCIAL SECURITY PREMIUM DISCOUNT FOR PART-TIME EMPLOYEES



The amendment to the Act No. 589/1992 Coll., on social security premium and on contribution to the state employment policy, brings employers, from February 2023 on, a possibility to claim premium discount for part-time employees. The aim of this amendment is to support employment of persons who can't work full time due to their age or current life situation.

Conditions and Rules of Claiming the Discount

The employer will be able to claim the premium discount of 5% of the assessment base total for part-time employees, who include persons older than 55 years of age, parents or other persons caring for children or other close persons under the age of 10, persons with disabilities or persons under the vocational retraining. The amendment specifies the conditions for claiming the discount by the scope of the working hours, which must be 8-30 hours per week. Another condition is the assessment base, which must not be higher than 1.5 times of the average wage and at the same time not exceed 1.15% of the average wage per 1 hour of the worked hours total for the calendar month.

The discount also applies to employment of persons who are under 21 years of age, regardless of the length of their working hours in this case.

Claiming the discount for employees with more employments is regulated so that if the employee has multiple employments with the same employer, the discount can only be claimed for one of them. If the employee has multiple employments with multiple employers, only one of the employers can claim the discount.

Obligations of the Employer and Employee

At the claiming of the discount, the employer is obliged to keep the prescribed records of employees for whom the employer claims the discount. In order to claim it, the employer is obliged to inform the Czech Social Security Administration by the deadline determined for filing the report for the calendar month for which the employer claims the discount using the prescribed form.

The employee has the information duty vis-a-vis the employer. The employee must provide the employer with information that is necessary for claiming the premium discount. If the employee fails to meet this duty or intentionally provides false information to the employer, the discount will be claimed in an erroneous manner and the employer may require the employee to pay the resulting penalty.

FREE PROVISION OF A LOW-EMISSION CAR TO EMPLOYEES



The amendment to Section 6 (6) of the Act No. 586/1992 Coll., on Income Taxes, effective since this July, regulates the rules for the free provision of low-emission cars to employees for both company-related and personal purposes. A low-emission car falls within the M1, M2 and N1 categories and does not exceed the CO2 emission limit of 50 g/km and 80% of emission limits for air pollutants in real traffic, according to the Regulation (EC) No 715/2007 of the European Parliament and of the Council.

The basis for taxation of non-monetary income of employees for these types of cars will now be reduced

from 1% to 0.5% of the initial car price for every (even a partial) month of the car use. According to the General Financial Directorate Information, this new regime can be claimed for the entire taxation period of 2022. All adjustments will be taken into account only after the end of the entire tax period within the annual settlement of income tax advances. Employees who file a tax return will receive from their employer an adjusted Certificate of Taxable Incomes from Dependent Activity.

New Regime and Social and Health Insurance Contributions

According to the viewpoint of the General Health Insurance Company and the Czech Social Security Administration, these changes will apply to health and social insurance contributions only after the effective date of the amendment, i.e. since 01 July. As regards the assessment bases of the employee and employer for 01-06/2022, the original amount calculated from 1% of the initial price of the car will continue to apply. The new regime is applicable only for the period starting on 01 July 2022.

Thus, unlike the personal income tax, there will be no overpayments of public-law insurance in relation to this amendment.

ABOLISHMENT OF ROAD TAX



As we informed in the previous issue of our Newsletter, the Parliament has discussed and approved of changes related to the road tax. The amendment to the Act No. 16/1993 Coll., on Road Tax, in force since 01 July 2022, completely abolishes the road tax for vehicles up to the 12 tons of weight. The effect of this amendment applies to the entire calendar year of 2022.

For this reason, the above vehicles are not subject to registration for the tax and are not to be indicated in the road tax return.

CHECK OF JOURNEY LOG BY MEANS OF DATA FROM THE CZECH POLICE



In its judgement of June 2022, the Supreme Administrative Court confirmed the correctness of the steps taken by the tax authority, which used records from the system "Automatic Vehicle Check (AVC)", maintained by the Czech Police, to check the data in a journey log.

The court was assessing the legitimacy of an entitlement to the deduction of VAT from the acquisition of a motor vehicle, which entitlement had been questioned by the tax administrator based on data from the AVC system. Data from this system, which monitors the actual movement of vehicles, showed that the actual movement of the respective vehicle along the monitored roads did not correspond to the entries in the journey log that the data entity had presented to defend the claimed entitlement to the deduction of VAT.

What was essential in this case was if such exchange of information between the tax administrator and the Czech Police was in accordance with legal regulations. The tax entity objected that the Czech Police was not entitled to collect data for the purposes of tax proceedings at the tax administrator's request.

However, the court agreed with the tax administrator's arguments and confirmed that the Czech Police had collected the information in order to prevent a threat to public order, not at the tax administrator's

request. Thus, the information was provided to the tax administrator as data necessary for tax administration.

Our Summary:

De facto, there is nothing that prevents the tax administrator from requesting data on the movement of a vehicle from the police for the purposes of tax proceedings. If any inconsistencies are identified, they will have a negative impact both on VAT and on the income tax. We must also keep in mind potential consequences at the criminal level if an intention is proved.

We are now waiting to see if this judgement will make itself felt in the checking activity of the Czech Financial Administration.

COSTS OF EMPLOYEE BOARD ON A BUSINESS TRIP



This June, the General Financial Directorate issued an interesting standpoint on tax deductibility of an employer's expense for employee board during a business trip if the purpose of the business trip is, for example, employee training, an internal event organised by the employer or an event held for customers or suppliers.

At such events, board needn't be provided only in the form of separate meals (breakfast-lunch-dinner), it can be a day-long board in the form of refreshments or hospitality. It was unclear if such board in the form of refreshments or hospitality can be classified as a non-tax expense for representation.

The financial administration agreed with the conclusion that all costs of providing board (i.e., all meals and drinks and related services) to employees during a business trip are tax deductible if the board has a nature of breakfast, lunch, or dinner regardless of the form in which the board is provided (e.g., a served meal, meal packages, freely accessible buffet table).

The only "disclaimer" that the financial administration reserves in its standpoint is the situation where it is proven that the board expenses are obviously excessive. The tax administrator could then object that the actual intention is not to ensure board corresponding to the circumstances of the business trip, but its aim is to reward the employee. Such interpretation could result in tax implications on the tax side of the respective employees.

Our Recommendation:

We recommend considering the tax implications of the selected form of board when planning bigger social events - both employee or customer ones - to be held outside the employee's regular workplace.

AMENDMENT TO THE GENERAL FINANCIAL DIRECTORATE GUIDANCE D-22 IN PREPARATION



The interpretative guidance D-22 on the single procedure in the exercising of certain provisions of the Income Tax Act, which is being issued by the General Financial Directorate, is a significant help when interpreting the Income Tax Act. The guidance constitutes internal methodology of the General Financial Directorate for the individual tax administrators. It

establishes the so-called administrative practice, which is binding on tax administrators. If you comply with the guidance, the tax authority is not supposed to put your actions in question.

The guidance was last amended in 2015. Since then, many things have happened in the area of taxes, and the amendment to the guidance, which might be issued by the end of this year, responds especially to the case law of courts and to new interpretations which the professional community agree upon.

Below see examples of some additions to the guidance that are being prepared:

- Specification how to calculate taxation of an employee benefit consisting in the employee being allowed to use a car owned by the employer on a one-off basis (e.g. borrows it for a holiday, for a weekend, etc.).
- Summary of tax implications of the meal allowance, which was implemented in tax regulations on 01 January 2021.
- Confirmation of the tax regime of incomes from the provision of short-term accommodation (e.g., Airbnb, booking.com and similar platforms).
- Confirmation of the possibility to claim exemption of incomes from royalties from withholding tax based on a decision of the tax administrator even retroactively.
- Specification of the tax regime of the so-called non-competition clauses of employees from abroad.
- New provisions of the guidance specifying the tax regime of the so-called exit tax (i.e., transfer of assets abroad without changing their ownership).
- Confirmation of tax impacts of the so-called trial operation and of the so-called early usage of new buildings.
- Specification of the method of calculation of the CZK 5,000,000 limit, which is decisive for the issue of filing a report of exempt incomes of natural persons.

TAXATION OF CRYPTOCURRENCIES - THE FIRST JUDGEMENT OF CZECH COURTS



The Brno Regional Court was the first Czech court to give an opinion on a dispute the subject of which was to assess if the sale of bitcoins for the Czech currency is subject to exemption from personal income tax pursuant to Section 4 (1) (e) of the Income Tax Act. In other words, if it is possible to consider the reached profit (the difference between the purchase value of the bitcoin of 2011 and its sales price of 2017) an exchange rate gain compared to the currency exchange and thus achieve tax exemption, which is in accordance with law as regards gains from exchange of foreign currencies.

In this case, the court agreed with the tax administrator and confirmed that the bitcoin cannot be considered money or foreign currency as it is not emitted or regulated by the state. In addition, the court referred to the standpoint of the Czech National Bank of 10 February 2014, according to which the bitcoin has no material substance.

According to the court, the purchase and sale of bitcoins constitutes the use of an investment tool, and the gain thereof increases the payer's property and thus is subject to taxation.

Our Comment:

The issue of cryptocurrencies is not handled in a comprehensive manner in Czech legal regulations. In our opinion, the current concept of cryptocurrencies, which bookkeeping views as inventory, cannot be

maintained for a long time, and a future legislative solution can be expected. At this moment, we can only refer to incomplete sources of information, such as the Ministry of Finance of the Czech Republic Guidance on Bookkeeping and Reporting of Digital Currencies or the General Financial Directorate Information on Tax Assessment of Cryptocurrency (e.g., bitcoin) Transactions of 30 March 2022.

INCREASE IN THE RATES OF MEAL ALLOWANCES AND THE AVERAGE PRICE OF FUEL FOR THE PURPOSES OF TRAVEL ALLOWANCES

As of 20 August 2022, as a result of an amendment to the Implementing Decree No. 237/2022 Coll., **the rates of domestic meal allowances** are set as follows:

- CZK 120 to CZK 142 if the business trip lasts between 5 and 12 hours,
- CZK 181 to CZK 219 if the business trip lasts longer than 12 hours but no longer than 18 hours,
- CZK 284 to CZK 340 if the business trip lasts more than 18 hours.

For instance, for a business trip lasting more than 18 hours, the employee is eligible for a meal allowance of at least CZK 284 as of 20 August 2022, and up to CZK 340, the meal allowance is not taxable or subject to insurance premiums.

The increased rates also affect the **meal allowance exemption**, which is exempt up to 70% of the upper limit for travel between 5 and 12 hours. As of 20 August 2022, the meal allowance is thus exempted up to a maximum of CZK 99.40 (i.e., 70% of CZK 142) per single shift.

As of 20 August 2022, **the price of 98 octane petrol** for the purpose of travel reimbursements will also increase to CZK 51.40 per litre. The original price of 95 octane petrol remains in force at CZK 44.50/litre and diesel at CZK 47.10/litre.

In conclusion of this issue of the Newsletter, we want to thank you for your favour, due to which HLB Network, which we are part of, received earlier this year the prestigious award of the Network of 2022 at the annual awards of International Bulletin in London. We value this award very much and are happy to share our delight with you.



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