

ISSUE NO. 1 / JANUARY 2023

TAX FRESH



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Dear business partners,

In this first issue of our Newsletter We would like to wish you the very best of luck in the New Year and thank you for your continued collaboration. We shall be pleased to continue to provide you with further expert support in the field of taxation, accounting and auditing.

Best regards



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Tax partner



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CHANGES TO THE VAT CONTROL STATEMENT AS OF JANUARY 1, 2023



The Control Statement ("CS") itself is not subject to any changes in 2023. The amendment to the VAT Act, however, brought several changes which relate to the control statement. In the event of delivery of a call for submission of a **subsequent** control statement (where the tax administrator has doubts about the correctness and completeness of the already submitted CS), the deadline for the submission of the subsequent CS is extended **to 17 days** from the date of delivery of the call to the data box of the taxpayer. The delivery of the call to the data box is defined as the moment when the call is **delivered to the data box**, not when it is actually read by the taxpayer.

Additionally, the fines for non-compliance with the control statement obligations have been partially **reduced**. The fines in the amount of CZK 10,000, CZK 30,000 and CZK 50,000 for breaches of CS-related obligations are halved in the following cases:

- The taxpayer is a natural person,
- The taxpayer has a quarterly tax period, or
- The taxpayer is a limited liability company, where the company has a single shareholder, who is a natural person.

Furthermore, the list of situations in which a fine for not submitting a CS does not arise has been extended. Until now it has been the case that if a taxpayer filed a CS for the first time in a given calendar year after the deadline for filing, without a call from the tax administrator, he would not have had to pay a fine of CZK 1,000. The new "remission of the fine" also applies to the situation when the taxpayer is **called upon to file a CS by the tax administrator for the first time** in a calendar year, where the fine would amount to CZK 10,000.

Pursuant to this fact, however, it will no longer be possible to use the option of a standard remission of one fine for fines in the amount of CZK 30,000 and CZK 50,000 arising as of the tax period starting from January 2023. This automatic remission option based on a request to the tax administrator applied to the remission of one of the fines in the amount of CZK 10,000 - CZK 50,000, regardless of the reason. As of the tax period starting in January 2023, this "automatic remission" is unfortunately no longer possible and in order to remit the penalties of CZK 30,000 and CZK 50,000, the taxpayer will have to include in the application one of the justifiable reasons that can be found in the Guideline of General Financial Directorate-D29 as amended by Appendix No.9 (natural disaster, health reasons, non-functionality of the state administration system, etc.). The decision to grant the request is then at the administrative discretion of the relevant tax administrator.

REAL ESTATE TAX FOR 2023



As in previous years, in the year 2023 it is necessary to file the real estate tax return for the year 2023 to the competent tax administrator by January 31 at the latest (the tax administrator in whose territorial jurisdiction the real estate is located is locally competent to administer the tax). The tax return is not filed if the taxpayer filed it for any of the previous taxable periods and there has been no change in the circumstances relevant for the determination of the tax compared to that previous taxable period. The same applies in the case of a

mere change in the coefficients used (e.g. a local coefficient set by a generally binding decree).

Accordingly, if during the year 2022 changes in ownership or other rights to immovable property or other operative events for the determination of the tax (e.g., a change relating to previously registered data in the cadastre of immovable property, even on the basis of a revision of the cadastre of immovable property carried out by the cadastral office) occurred, the taxpayer is obliged to file a regular or a partial real estate tax return. Similarly, the same procedure is followed in the case of newly approved buildings or units, or buildings and units that are not yet completed but are already in use.

The tax is assessed for the tax period as at January 1, 2023. We point out that there are no amendments or changes to the Real Estate Tax Act compared to 2022.

Should you be interested, we are ready to draw up your real estate tax return for 2023.

REPORTING PURSUANT TO SECTION 38DA OF THE INCOME TAX ACT ON TAX EXEMPT OR TAX-FREE INCOME



This reporting obligation to your competent tax authority is not a new one. It has been in force since 2019. For reminder - your tax authority requires information on all payments you have made abroad and these payments were either exempt from withholding tax in the Czech Republic or are not taxable in the Czech Republic at all. Typically, this may include exempt payments of dividends, royalties, interests or even services supplied by the foreign company to your company in the Czech Republic. The reporting limit is CZK 300,000 per month (payments up to this limit are not reported).

The report shall be submitted once a year, specifically by January 31 of the following year. You are therefore obliged (provided, of course, that the obligation has arisen) to submit a report on the prescribed form **by January 31, 2023** for the entire year 2022.

TRANSFER PRICING ADJUSTMENT FOR 2022



It should certainly be no news that companies undertaking related party transactions must reflect the arm's length principle. In the course of work on financial statements, it is a standard practice to discuss the possible adjustment of arm's length prices (so-called TP Adjustment) to ensure "safe" profitability. This profitability interval should ideally be supported by a benchmark study (which will serve as evidence for potential tax inspection).

We would like to draw your attention to the fact that with the preparation of the financial statements, this is the ideal time to assess and account for the TP Adjustment for the 2022 transactions **in the 2022 financial statements**.

CNB RATE INCREASE AND THE TAX IMPLICATIONS OF THE MEASURE



To counter inflation, the CNB (Czech National Bank) Board has raised the two-week repo rate to **7%** with effect as of July 1, 2022. As at January 1, 2023, the CNB Board has left this rate unchanged. Increases in other interest rates, such as the Lombard rate and the CNB discount rate, were also implemented.

These measures by the CNB have two immediate tax implications.

Default Interest

The first is a penalty in the form of a default interest, which is charged in the case of late payment of tax (including advance payments). The amount of this interest is calculated as the CNB repo rate + 8%. Thus, for the second half of 2022 and at least for the first half of 2023, the late payment of tax will incur **default interest at the rate of 15% per annum**.

Market-Based Interest for Intra-Group Financing

The second impact is the need to review the terms set for financing between related parties (most often members of a group of companies). Interest rates on the interbank market are important for setting the arm's length interest rates for intra-group loans, which are often used as a benchmark for tax inspections to compare with the terms of a specific intra-group loan agreement. Of the above rates, the Lombard rate, which determines the cost of money from the CNB to commercial banks, is the most important.

The need to react to the development of market interest rates does not apply only to the situation when you are negotiating a new loan agreement with a related party. The OECD methodology de facto requires us to monitor the development **even for loans agreed earlier** and, if an exceptional situation arises, to respond by modifying the contract.

We expect that the tax administrator will consider the current rapid spike in interest rates to be an **"exceptional"** situation and may require an adequate adjustment of the terms of intra-group financing.

CHANGES FOR FILING PERSONAL INCOME TAX RETURN FOR 2023



An increase in the limit for filing a tax return

At the end of last year, an amendment to the Income Taxes Act (ITA) was adopted, which significantly increased the income threshold from which a natural person is obliged to file an income tax return.

According to the wording of the amended version of the Act in Section 38g(1) of the ITA, the limit has increased from CZK 15,000 to CZK 50,000 per year. The aim is to ease the administrative burden on taxpayers and tax administration authorities in the case of negligible income. In this instance, it is not a question of exempting this income from taxation, but of effectively removing the obligation to declare this income. This amount does not include income that is not subject to tax, income that is exempt from tax and income on which tax is withheld under the special tax rate pursuant to Section 36 of the Income Taxes Act.

The effectiveness of this amendment is as of January 1, 2023, so it will only really affect the assessment of the obligation to file a tax return for the year 2023 that will be resolved in 2024.

Limit in the Case of a Natural Person - Employee

The related change is an amendment to the provisions of Section 38g(2) of the ITA affecting natural persons with income from employment. If such a person does not have other income - i.e., apart from work-related income (i.e., employment) - higher than CZK 20,000/year (the amendment increases the original limit from CZK 6,000/year), he/she does not have to file a tax return and his/her employer can make an annual tax settlement. Following the amendment, a natural person is not obliged to file a tax return if:

- 1) The person has income from only one employer or consecutively from several employers,
- 2) The person has made a tax statement to the employer for the tax year in question and
- 3) The amount of its other taxable income (i.e. income under Sections 7 to 10), which is not subject to withholding tax under the special tax rate, does not exceed CZK 20,000.

The reason for this change is again to reduce the administrative burden on employees and employers, as well as the tax administration, in view of the rising prices. The fact that the limit was last raised in 2004 also had an impact.

Specific Situations with an Obligation to File a Tax Return

To conclude on this topic, please note that the increase in the income threshold described above does not apply if the taxpayer reports a tax loss. The same applies in the case of a non-resident taxpayer claiming a spouse or child allowance, or claiming a donation or interest paid on a mortgage. In these cases, it is necessary to file a tax return.

A natural person who has received a payment of insurance benefits from a private life insurance policy, other income that is not insurance benefits and does not result in the termination of the insurance contract, or the early termination of a private life insurance contract, as a result of which the obligation to tax income from employment has arisen, is also required to file a tax return.

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



As of January 1, 2023, Decree No. 467/2022 Coll. of the Ministry of Labour and Social Affairs changes the amount of meal allowances due to employees on business trips as follows:

- The employee is entitled to a minimal meal allowance of CZK 129 if the business trip lasts between 5 and 12 hours; the increased range of CZK 129-153 applies to state employees.
- The employee is entitled to a minimal meal allowance of CZK 196 if the business trip lasts between 12 and 18 hours; for state employees, the increased range of CZK 196-236 applies.
- The employee is entitled to a minimal meal allowance of CZK 307 if the business trip lasts 18 hours or more; for state employees, the increased range of CZK 307-367 applies.

The maximum value of the cash allowance provided by the employer to the employee for meals, which is exempt from income tax, is also based on the amount of the meal allowance. This is set at 70% of the upper limit of the meal allowance that can be granted to state employees for a business trip of 5 to 12 hours. As of January 2023, the amount is CZK 107.10.

The basic allowance for the use of personal road vehicles is also increased from CZK 4.70 to CZK 5.20 per 1 km of travel.

On the other hand, as of January 1, average fuel prices will decrease as follows:

- From CZK 44.50 to CZK 41.20 per litre of 95 octane petrol
- From CZK 51.40 to CZK 45.20 per litre of 98 octane petrol
- From CZK 47.10 to CZK 44.10 per 1 litre of diesel

The average price of 1 kilowatt-hour of electricity remains unchanged at CZK 6/kWh.

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