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Tax

Automatic exchange of information about financial accounts is approaching

The Czech Republic will participate in the automatic international exchange of information about financial accounts for the purposes of tax administration. Unified procedures and conditions for the implementation of this exchange are set out in the so-called Common Reporting Standard (CRS) which was prepared by the OECD. 61 countries are already committed and more than 90 countries have promised to implement information exchange.

The first automatic exchange should be set up by September 2017 by means of the General Tax Directorate.

Information about financial accounts in the Czech Republic should be identified and collected by financial institutions in 2016 and will be announced to the Specialized tax office in June 2017. The same terms for notification and exchange of information will be applied in the following years. The information will be forwarded to the state whose tax resident is the owner of notified financial account or another person with links to the owner.

Forwarded information will include:

- Details about the financial institution being notified
- Details of the account holder (name, address, state or states of tax residency, VAT identification number or date and place of birth)
- Details of individuals controlling the entity that owns the account (e.g. Trust Fund)
- Account number
- Balance or account value (for insurance contract with capital value or retirement insurance contract with capital value or surrender value) at the end of the calendar year, and information about the possible cancellation of the account
- Total gross amount paid or credited to the account holder in connection with the account (interest, dividends, etc.) including the aggregate amount paid by the account holder for any redemption

The key procedure is going to be the use of due diligence methods to determine the owner of an existing or newly-created account or its controlling entity as a so-called reportable person, and determine the state or states to which such a person is a tax resident. The procedure will be a considerable administrative burden

for the notifying financial institution and for the account holder.

CRS provides specific procedures for due diligence for:

- Previously existing accounts of individuals with a lower value (i.e. with an aggregate balance or value that, at the end of the calendar year that precedes the commencement of the due diligence procedures, correspond to the amount of \$ 1,000,000)
- Previously existing accounts of individuals with a higher value
- New accounts of individuals
- Previously existing accounts of entities (i.e. not individuals)
- New accounts of entities

When creating a new account, the financial institution will require a statutory declaration for the purpose of determining tax residency of the account holder or its controlling person or persons.



Hana Erbsová
+420 251 152 971



If you are interested in receiving Tax, Legal & Business News, please contact Denisa Skalova, denisa.skalova@cz.pwc.com.

Tax

EU Report criticises Member State Tax Codes for Profit Shifting

To help combat tax avoidance by multinational companies, the EU Parliament report called for taxes to be automatically imposed on money leaving the EU that has not been taxed. The report also called for sanctions against tax havens and free trade agreements that include tax provisions as well as whistle-blower protection at the EU level. According to an EU Parliament tax committee draft report, EU member states' "excessively" complex national tax codes allow base erosion and profit shifting by large multinational companies that is undermining the EU single market. The report also accused Luxembourg, the Netherlands and Ireland of EU treaty and law violations that have allowed for sweetheart tax rulings offered to multinational companies that are currently being investigated by the EC for illegal state aid.

The EC took note of the Parliament draft report, but will wait until October when the final version is released before making any detailed comment.

EU member states will share Advanced Pricing Agreement

The European Commission proposed a draft Council Directive that would require the Czech Republic to automatically share information about Advanced Pricing Agreements (APAs)

which were granted to multinational companies. The information exchange should also cover the decisions issued during the 10 years before the Directive became effective.

The Czech tax office is already considering whether the transfer pricing method in APA applications would be acceptable from the other states' perspective and whether the ruling could be seen as "state aid" by the European Commission. Nevertheless, APA is still the best alternative to gain certainty on the transfer pricing method in a cooperative environment.



Peter Turčáni
+420 251 152 532

Natalia Pryhoda
+420 251 152 647



OECD protocol to agreements on the exchange of tax information expands their possibilities

The OECD recently published a model protocol for agreements on the exchange of information in tax matters, which was concluded in the past and is based on a model agreement drawn up by the OECD. The protocol is intended to expand these agreements and allow for the possibility of automatic and spontaneous exchange of information. So far, the exchange of information has

been possible but only upon request. Currently, the Czech Republic has agreements with the British Virgin Islands, Jersey Island, the Bermuda Islands, the Isle of Man, Guernsey Island, the Republic of San Marino, the Cayman Islands, the principality of Andorra, the Commonwealth of the Bahamas and the Cook Islands (agreed in 2015, not ratified yet).



Hana Erbsová
+420 251 152 971

Control Statement – four months for preparation

A Control Statement is a new report that all VAT payers will have to submit starting in January 2016 if they performed or received taxable supplies where the place of supply is in the Czech Republic. It can only be filed electronically, in the XML file. The Czech Financial Administration published [the required technical structure and instructions on its website](#). Most companies will have to adapt their respective IT systems due to the scope of the data required. The Control Statement doesn't relate to Electronic records of sales – these two statements are fully independent.



Martin Diviš
+420 251 152 574

Law

Horizontal delegation of authoritative competence can make the functioning of the company more effective

The New Civil Code and the Business Corporation Act allow for the division of powers of members of an institution (especially executives or board members) into certain defined segments. It should be divided according to a specific field that can be viewed as a concretized range of matters or activities (whether it is divided by the scope of expertise or geographically). The so-called horizontal delegation may then lead to the objectives of the company being fulfilled more effectively.

The consequence of this division is that only a member who has been assigned the competence in a specific field can make decisions about relocated matters. Other members of the institution, including members of the supervisory body of the company if established, are not relieved of their duty to supervise the proper management of affairs within the industry that have been entrusted to them. Members have the right to ask the authorized member for information on actions taken and planned and the information must be provided.

This division impacts the functioning of the company and upon the area of responsibility of statutory bodies, which may be partially limited by that division within an industry that is not covered by the objective field.

However it must be noted that the actual delegation of powers can only have an impact within the company and that liabilities to third parties can't be limited this way.



Vlastimil Volek
+420 251 152 921



Law

Corporations have to finish the general opt-in till the end of the year

The end of the period, within which corporations established before 1.1.2014 can make a so-called general opt-in and submit to the new Business Corporations Act (BCA), is approaching. Corporations can make this choice within two years after the effective date of the BCA, i.e. 1.1.2016 at the latest. If they don't do so, they remain subject to the adjustment of the old commercial code which, at the time of the effectiveness of the new law, causes interpretation problems.

If the business corporation decides to opt in, it must fulfil statutory obligations. It has to convene a General meeting to decide on the submission of the BCA. This decision must be in the form of a notarial deed. This opt-in will become effective when published in the Commercial register.

In our opinion, the submission of the BCA is an advantageous step that will avoid legal uncertainty and conflicts about which establishment of the Commercial Code is applicable in this case. Opt-in will simplify the corporation's practical life and act as an outward signal that the company is properly managing its affairs.



Daniel Pikal
+420 251 152 974

Accumulation of functions: Is it possible or not?

Recently we received a lot of questions from clients regarding the current legislation on the accumulation of functions. This actual ambiguous legal definition has significant impacts. The situation where a member of a statutory body has 2 contracts: one is a contract on performance while the other is an employment contract, and the activities of the two partially overlap is currently very controversial and legally questionable.

The accumulation of functions is not regulated in the Business Corporations Act. Simultaneously, the New Civil Code is based on the freedom of contracts, which means that what is not forbidden is allowed. Therefore, it should not be necessary to explicitly regulate the accumulation of functions, unless it is prohibited in any legal act. However, the professional community maintains that the accumulation of functions is not currently possible.

The Ministry of Justice indicates in its press release that the accumulation of functions is not possible because one activity can't be performed on the basis of two contracts because there's no reason for signing an employment contract that is required by the New Civil Code for every single legal relationship. Another argument mentioned is the fact that business management performed by a member of the statutory body does not match the characteristics of dependent work specified in the Labour Code.

Employees

The court issued a decision which stated that when a production manager of a limited liability company does professional / expert work, this same professional / expert work is also part of his/her overall roll as a manager. The actual content of the function of the manager was (should be) the same activity which the defendant performed (should performed) as the executive head, when the optical separation of these activities was only artificial and teleological.

If you need legal assistance regarding this area, do not hesitate to contact us.



Daniel Pikal
+420 251 152 974

Further clarification particularly on procedural conditions, under which it is possible to apply for a long-term residence permission or for its extension, is expected in the next few months.

The traditionally requirements of arranging for health insurance and accommodation prior to arrival by the foreign national remain unchanged.



Jana Zelová
+420 251 152 567

Based on our experience, it appears that the best precaution is early recognition of potential risk areas and acceptance of systemic remedial measures. For further information, do not hesitate to contact me.



Tomáš Hunal
+420 251 152 516

Tax inspection is focused on payroll accounting for seconded staff

The Financial Control expands the analytical approach to oversee whether taxpayers are fulfilling their obligations. At the centre of attention, especially of the Specialised Financial Office, is the Personal income tax of dependent activities, specifically the correctness of the procedure of tax payment via payroll accounting.

The Supervisory authorities are focused not only on the purchase of companies when taxing various employee benefits (e.g. income from equity plans of the parent companies), but increasingly also on the accuracy of payroll accounting for foreign employees seconded to work in the Czech Republic or domestic employees seconded to work abroad.



PwC

Summer Accelerator at PwC supports young people in social business!

An intensive acceleration program for this year's winners of the Social Impact Award (SIA) was conducted during the summer holidays, with the support of the consultancy firm PwC Czech Republic. Young people who have succeeded with their ideas on how to help and do business at the same time, gained expert advice over the summer on how to turn that idea into a functional and financially sustainable socially rewarding venture. Ideas about how to support female programmers, stepparents, internet donations and healthy snacks won in this year's contest for social start-ups.

Support for social business through professional volunteering is already a tradition at PwC. Specialists from different fields, such as experts in the analysis of customers and competition, strategic planning and information technology as well as experts on tax and legal issues were involved in a mentoring program this year.

How does the summer acceleration program work?

Each winning team received a mentor from among the auditors or consultants. The teams then met within two months and resolved how to successfully start a social start-up. The main topic of the meetings with the mentors were, for example, how to establish the overall business concept, basics of financial planning, analyse competitors and potential customers, communicate and promote of the new business.

To complement the comprehensive coaching, technical questions, specific questions about law, for example, what legal form to choose, what not to forget when starting up a business, how to write a founding agreement, how to treat relationships between business partners and how to treat copyright and know-how. Another set of questions dealt with tax issues, for example, how to tax your products or services or how about VAT, etc.

The entire acceleration program will be finished by a so-called celebratory Day-D, which will be held on 16 September 2015 from 18:30 in the hall of the Česká Spořitelna, Rytířská ulice 29, Prague 1.

The teams that have won the SIA award this year and worked all summer on starting their project under the leadership of PwC will be presented during the evening.

The two best will receive another reward worth € 1,500 at this gala evening.

One of them will be chosen by our mentors and the second by a jury, where PwC will also take part. The jury will decide in which project they would invest if they were investors.

Hana Erbsová, a junior from PwC Legal, says: „With a colleague from the tax, we advised the social business Czechitas, which supports women in IT, on how to register an institution and how to use trademarks. We helped with the selection of the most appropriate legal form and we explained the conditions of a contract that receives public funding...”

Ludmila Váchová, from the tax department, says: „Vocational volunteering seems to me like an excellent way for us to effectively help social start-ups to actually get started. At the same time, I have the opportunity to pass on my experiences and help someone to realize an interesting idea.”

For further information about SIA, visit www.socialimpact.cz and for more information about our partnership, visit www.pwc.cz/odpovednost



Pavla Zemanová
+420 251 151 841



Dita Přikrylová, founder of the social business Czechitas, Ludmila Váchová from the PwC tax department and Hana Erbsová from PwC Legal at a meeting where they discussed the tax and legal issues of the Czechitas business idea, which organizes seminars about IT literacy and specialized programming for women.



Meeting of mentors from PwC and the winning teams from SIA 2015 at the introduction of the summer acceleration program. Michaela Tybusová, a senior consultant from the audit department, offers advice on a project – Third parent – focused on support of stepparents and their partners.

Study

The biggest threat for Czech insurance business is excess regulation

We are bringing an overview of the major risks according to the survey “Insurance Banana Skins”, performed by the Centre for Research of Financial Innovation (CSFI) in cooperation with PwC. Every two years, the survey looks for the greatest risks for insurance companies.

Regulations

Concerns about frequent changes of rules is among the most significant fears in the insurance market. This is particularly the case with the Solvency II regulatory framework combined with, not only difficult implementation, but also with high costs of implementing it and the uncertainty associated with subsequent acceptance by the regulator. While earlier fears related to the uncertainty about the timing of when the framework was going to be introduced the and the specific content of the regulatory requirements, insurers today are facing particular obstacles related to the ongoing implementation.

Interventions of politicians

Czech insurers are worried about political pressures for many reasons. It is not only about the question of implementing taxes on insurance that gets discussed regularly, or the eventual phasing in of “parafiscal” taxes. Also, other products, e.g. health insurance for foreigners, participation of the commercial insurance sector in health care reform or the employer’s liability insurance, are dependent on political decisions.

Macroeconomic environment

The macroeconomic environment significantly influences the demand for insurance products and their profitability. Insurers react to the current situation by reducing operating costs and focussing on the profitability of trade, which was often forgotten in past years in the battle for new production volume. Sharp competitive pressures have a negative impact not only on the margins of insurers due to declining insurance rates, but we can’t even rely on investment income, which in the past in many cases counterbalanced the negative technical results.

Interest rates

Interest rates significantly affect sectors of life and non-life insurance. Low interest rates reduce the attractiveness of life insurance savings products and negatively affect their sales. On the other hand, low interest rates support investments, part of which also goes towards having adequate insurance (noticeable e.g. in the insurance of buildings or loans). Interest income from financial investments was for many years an important source of profit for insurance companies. In periods of low interest rates, insurers have to rely more on the profitability of their own products.

Business practices

Mediation practices in the sale of insurance in the Czech Republic represent a long-standing problem that occurs particularly in life insurance. Frequent mediated reinsurance contracts are ultimately disadvantageous for both the insurance company and the client. The credibility of life insurance products is disrupted. The business practices of some insurance retailers are perceived somewhat negatively in other countries; however, people in the Czech Republic perceive them as being much worse.



Martin Hrdý
+420 251 152 226



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The Academy

Financial Instruments, Hedge Accounting and IFRS 9

The first IFRS seminar which will be held in autumn 2015 will focus on the topic of **Financial Instruments (on 22 September)**. It will be followed by a seminar on **Hedge Accounting (on 30 September)**. For the beginning of this season we have also prepared seminars for you which cover standard **IFRS 9**. This training will be held on two dates: on **8 October** it will be mostly focused on a corporate sector issues, and on **15 October** it will be mostly focused on financial sector issues. For more IFRS seminar topics, see our website www.pwc.cz/academy.

Length of the seminar:	1 day
Venue:	PwC, Hvězdova 1734/2c, Prague 4
Time:	9.00–17.00
Price:	6 900 CZK + VAT
Language:	Czech



Tax Academy – Welcome to the world of taxes

Tax Academy is a special development programme which helps you understand fundamental principles and current procedures in the field of Czech and international tax practices. The programme will introduce you to areas such as Direct and Indirect taxation, International Taxation, Tax Administration, and much more. The programme consists of 5 modules. For more information and registration, please fill in the registration form at www.pwc.cz/academy.

Date:	Direct Taxation I: 14 – 15 September 2015 Direct Taxation II: 1 – 2 October 2015 Indirect Taxation (VAT): 13 October 2015 Principles of International Taxation: 3 November 2015 General Tax Administration: 9 November 2015
Venue:	PwC, Hvězdova 1734/2c, Prague
Price:	49 000 CZK + VAT 44 100 CZK + VAT * (*price for 1 person on registration of 2 participants)
Language:	Czech

Should you have any questions, please contact Lucie Kašparová, tel.: +420 251 152 035 or write to the.academy@cz.pwc.com.

www.pwc.cz/academy

Contact

Jiří Moser

Country Managing Partner
+420 251 152 048

David Borkovec

Lead Tax & Legal Services Partner
+420 251 152 561

Věra Výtvarová

Lead Assurance Services Partner
+420 251 152 099

Miroslav Bratrych

PwC Advisory Partner
+420 251 152 084

Michael Mullen

PwC Legal Partner
+420 251 152 700

Prague Office

Hvězdova 2c, 140 00 Prague 4
+420 251 151 111

Brno Office

náměstí Svobody 20, 602 00 Brno
+420 542 520 111

Ostrava Office

Zámecká 20, 702 00 Ostrava
+420 595 137 111