

Tax & Business News

Tax, accounting, advisory and assurance newsletter

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Dear Business Partners,

Welcome to the October edition of Tax & Business News in which we bring you updates and news from the areas of tax, accounting and financial advisory.

Although we usually highlight the latest news written by the pens of legislators or judges in our bulletin, I would like to devote this editorial to the timeless but current topic of tax inspection. Like in the game of chess, both sides in negotiations with tax authorities require knowledge of the "rules". It is also

important to be able to thoroughly rethink the overall strategy for dealing with the authority and to be prepared to adapt the tactics during the "game" as needed.

Based on our daily communication with clients, we know that being an equal player in successfully confronting the tax officials is not easy. We decided to help you find the most suitable strategy, so we prepared a series of seminars for you on topics related to the new tax system and tax inspections. During these seminars, our team of experts will provide you with insight into the "rules" – the new tax legislation – and will also pass on their experience in the form of practical advice and tips related to tax inspection.

We realise that, sooner or later, every company might face a tax inspection, regardless of its size or location. To be able to deal with issues that are specific to your region, we decided to come to you. The series of our seminars will therefore have the character of a roadshow. We started on 12 October in Zlín, and we will continue on 18 October in Brno and Ostrava. During the following weeks, we will also reach the Bohemian regions – namely the cities of Plzeň, Hradec Králové and Prague.

Besides tax inspections, we devoted this edition of TBN to the amendment of the Property Tax Act requiring hard surfaces to be measured and properly taxed, which belongs to the manufacturing and logistics area. Those of you who keep accounts according to IFRS should certainly pay attention to the article with news on operating leasing, which will now be reported in the lessee's balance sheet.

I hope you will find this edition inspiring and interesting.

Yours sincerely,

Peter Chrenko
partner

Legislative process is always in motion

Technical amendment of the Income Tax Act

The government has approved the amended version of the Income Tax Act within the current phase of the legislative period. The version presented for comment procedure that we informed you of in the last issue of TBN has undergone several changes. Based on remarks, the passage newly dealing with the tax regime of non-monetary employee benefits has been removed. Further, those changes that would implicate an increase in collective investment funds' taxation have been removed.

To the contrary, the government has approved making the taxation rules more restrictive for so-called ecological energy sources. According to the accepted

version, starting from 1 January 2011, the present tax relief clause that had been applied so far in the first year of the equipment operation and in the following 5 years will be abolished. The proposed version can however evoke disputes considering its possible retrospective effect, for the tax relief cancellation also concerns equipment put into operation before the end of 2010 and where the tax relief was one of the grounds for acquiring the equipment. It is consequently necessary to take into account the claims of energy source operators or investors towards the state as a result of the change in the tax conditions for the operation of these sources.

Economic measures and their impact on employers

The government has also approved a comprehensive amendment of several laws in connection with economic

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measures within the competence of the Ministry of Labour and Social Affairs.

In the Labour Code, the most important proposed change for employers is the extension of the period of sick leave for which the employee is entitled to wage compensation, from 14 to 21 calendar days (henceforth excluding the first three days of sick leave). This measure should be temporary and should be valid from 2011 to 2013. The entitlement to sickness benefits will therefore arise from the 22nd day of sick leave. A substantial change is the further proposed obligation to conclude a contract for accomplished work in written form under the penalty of absolute nullity. It remains nevertheless unchanged that revenues from contracts for work will not be subject to social security payments.

The social security contributions rate for employers will remain at the current 25%. Only so-called small employers with up to 25 employees will be able to choose a premium of 26%, while they will be able to reduce half of the amount of wage compensation paid to employees for sick

leave out of sickness insurance premiums. For other employers, this refund will not be applicable.

For employers who act as employment agencies, a newly designed obligation has been proposed to insure against insolvency in the event of their bankruptcy or insolvency of the users up to three times the average monthly earnings of their employees. This measure will undoubtedly raise the cost of so-called agency employees for the hiring companies.

Information exchange

The ratification of tax information exchange treaties is being prepared in the international treaties field. The Ministry of Finance has already stated that it is negotiating such treaties with the Isle of Man and Guernsey jurisdictions. It is expected that, within the global tax evasion battle, such treaties will be signed with the majority of other countries that are regarded as so-called tax havens and where there exist no other treaties

regarding information exchange, especially double tax treaties. Such treaties should enable providing information upon request of the other treaty party, including information protected by banking secrecy and information regarding the ownership structures of corporations (as long as the treaty party possesses such information). At the same time, the inquiring party should not be obliged to prove the reasons or suspicions that are leading to the inquiry.

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The Supreme Administrative Court: a written declaration of the purchaser is not sufficient to prove that goods have left the Czech Republic

The Supreme Administrative Court (NSS) has issued decision no. 8 Afs 14/2010-195 in which it has ruled that a written declaration of the purchaser to the effect that he has dispatched goods to another EU Member State is insufficient for exempting the supply from VAT.

The company concerned runs a wholesale business where the purchasers transport the purchased goods with their own vehicles. During the tax audit the company was asked to prove that supplies of goods to Slovak customers had left the Czech Republic. The company evidenced that:

- the Slovak purchasers had proved their VAT registration in another EU Member State by means of a VAT registration certificate. In addition, the VAT registration numbers were verified by the wholesale supplier within the VIES system;
- it applied VAT exemption only when the purchaser had proved dispatch of the goods to another EU Member State by means of a written declaration in compliance with the relevant provision of the VAT Act; and
- it did not have any information indicating that the goods were not dispatched from the Czech Republic.

The proof of intra-community movement of the goods produced by the supplier was found in the judicial proceedings not to be sufficient to support VAT exemption.

According to NSS a declaration is only one of the proofs required. If disputed, the VAT payer is obliged to prove that the goods have physically left the Czech Republic by other means (e.g. documents supporting storage of goods, inventory records of the purchaser, proof of transport of the goods or a declaration relating to the goods).

We believe the NSS decision contradicts the VAT Act and ECJ judicature according to which if a supplier is a victim of a fraud, payment of VAT cannot be requested from him.

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School fees cannot be deducted from the tax base, even if they are presented as a gift

In its recent judicial decision, the Supreme Administrative Court repeatedly used the real transaction matter principle when determining the transaction's tax regime (the so-called substance over form principle).

In the case mentioned, a certain natural person (the taxpayer) had used a gift granted to the endowment fund of a private school as a tax-deductible item. However, in the year in question, the person's daughter had been studying in this school.

During the subsequent tax audit, the tax office reclassified the granted gift as a school fee and refused exercise of the tax-deductible item. The SAC had agreed with the conclusions of the tax office and stated that the gift granted was, in substance, a payment of the school fee.

Although the school involved did not formally require any fees for the studies, the children's parents nevertheless had an obligation to become members of the related endowment fund and contribute to it with gifts or, more precisely, member fees. In case of failure to fulfil this obligation, it was possible to exercise a contractual penalty against the parents. This provision had therefore turned the gifts and member fees into an obligatory payment.

According to further evidence, the school had specified to the school applicants the amount of the school fees that corresponded to the size of obligatory fund contributions, and the students' parents had been familiarised with the fact that standard school fees would be introduced in case fund contributions did not fully cover school expenditures.

We cannot conclude from the judicial decision that it is a priori impossible to use a gift to the school attended by the taxpayer's children as a tax-deductible item. Nevertheless, this gift must not constitute in substance a school fee payment, and it must not be only or mostly the children who bear the benefits from the gift.



If you are considering the tax consequences of granting gifts, please contact:

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When the air conditioning is part of the building

If we want to determine whether certain technical equipment, according to the Income Tax Act, forms one long-term asset together with the building it is installed in, it is necessary to make a judgement on whether this equipment is indispensable and essential for the building's function and purpose. The other criteria are a firm connection of this equipment with the building and also the fact whether eventual disassembly of the equipment would cause devaluation of the building's function and purpose. Such facilities that enable the function and the purpose for which the building was designed and approved should be considered as an integral part of the building. This statement comes out from a recent Supreme Administrative Court's decision.

The Court has also stated, on the example of air conditioning, in which cases this equipment is regarded as part of the building and in which it is a separate asset (for income tax purposes). The Court has stated that, namely, the Ministry of Finance guidelines D-190 or D-300, which bring examples of separate assets, are not in accordance with the Income Tax Act, and one cannot follow these guidelines without further judgements. Air conditioning can be considered as a part of the building in, for example, cooling chambers or office buildings where it is the only means of ventilation. To the contrary, if the air conditioning has been additionally installed

in a building that already has another ventilation system (for example, opening windows), the air conditioning must be regarded as a separate asset. In the case mentioned above, the air conditioning just improves the quality of the building that is already functional. It is always necessary to assess the function and purpose of each asset in respect of taxes.

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Investment incentives – how to calculate sanctions

If a taxpayer violates the requirements for tax base minimalisation in respect of counting tax allowance, the sanction will be calculated from the "new" tax allowance claim, which the tax office determines after tax audit. The Supreme Administrative Court has stated that the outcome of the tax audit always has to be projected into the calculation of the tax allowance and the related sanctions.

Therefore, it is necessary first of all to calculate the right tax allowance claim, and then deduct the sanction from the newly determined "lower" claim. The sanction will then be calculated as the product of the double tax rate and the change in the tax base caused by violation of the conditions for claiming tax allowance. This is the difference between the initially acknowledged higher tax base and the lower tax base determined after the tax audit.

It is necessary to mention that the legal regulation of the sanction using the double tax rate is no longer valid. Presently, only the tax rate valid in the period in question can be used for calculation of the sanction. Due to the absence of interim provisions, this lower sanction should be applied in all cases.

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National Accounting Committee:

The road to the supermarket should be capitalised into its construction costs. Unclaimed dividends must be recorded on off-balance sheet accounts.

In September 2010, the National Accounting Committee (NAC) proposed versions of interpretations of NI-36 Accounting treatment of contingent capital expenditure and NI-38 Accounting for obligations arising from the allocation of equity. The interpretations express the expert opinion of the NAC on the application of Czech accounting regulations. They do not constitute a legally binding opinion, but only a professional opinion on possible solutions to contentious issues in accounting that are not explicitly addressed by Czech accounting regulations.

Induced investments

The first version of the interpretations deals with expenditures that accounting units have to bear in connection with another asset's acquisition, for example, expenditures on building the related infrastructure (road communications, pavements, etc.), monetary or non-monetary contributions for building such infrastructure, handing over an asset owned by the company to a third party, etc., whereby these induced investment expenditures are not refunded or are refunded purely symbolically. In practice, such a situation happens, for example, to trade and administrative centres. Their construction is conditioned by building the related service transport infrastructure that is subsequently handed over to the municipalities.

The interpretation offers that, in order to follow the economic substance of the transaction, these infrastructure expenditures should be capitalised into the main asset's value (constituting a part of the purchase cost of the "main" asset in the sense of par. 25 of the Accounting Act) if they are indispensable for the main asset's construction. This conclusion is also in compliance with the International Accounting Standards, which state that the purchase cost of the asset must include all the expenditures made for bringing the asset into the state where the asset can be operated in the intended place and for the intended purpose.

The interpretation further proposes that, in case the obligation to bear the induced investment expenditures disappears during the asset's operation period, the expenditures made up to that moment will remain part of the asset purchase cost. Similarly, the NAC considers that, in case of early termination of the asset purchase (spoiled investment), the expenditures made up to that moment should also remain in the purchase cost of the investment in question.

If the interpretation is accepted in the latest version, this will have an impact not only on accounting during the acquisition of long-term assets, but also possibly on tax aspects. The interpretation version is reacting to a regulation related to the so-called induced investments in the sense of par. 29 of the Income Tax Act that had so far not had any treatment in the Accounting Act.

Unclaimed dividend

The second proposed interpretation submitted to the amendment procedure resolves the process of charging statute-barred liabilities arising from unapplied claims on the allocation of unused equity of companies and cooperatives. These commitments were charged when they arose in accordance with accounting practices at the expense of some of the components of equity (for example, obligations in respect of shares allocated to the profit and dividend obligations arising from the return of premiums in excess of capital commitments from the settlement amounts of team members). This situation is typical for joint-stock companies with a large number of small shareholders who keep the physical form of shares and who do not collect the dividends due to them.

Continuous presentation of the statute-barred commitments in the entity's liabilities, with no expectation of their fulfilment, contradicts the requirement of a true and fair view and makes its financial indicators unreasonably worse. Therefore, such a commitment should be exempted from the entity's liabilities and be further monitored on off-balance sheet accounts.

The interpretation suggests that exclusion of statute-barred commitments arising from the equity division should be charged to equity capital, not to its revenue. As the eventual settlement of the liabilities does not impact its legal status, it is appropriate to record the value returned as a separate equity item. If the commitment is fulfilled after it was exempted from liabilities, the transaction will be charged to equity capital.

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AEO: improved customs clearance times and improved supply chain security

An AEO certificate is designed for companies established in the EU engaged in the import and export of goods. AEO status provides benefits such as improved customs clearance times, improved supply chain security and increased credibility in business partnerships.

Permanent establishment to apply for AEO certificate

Permanent establishments in some EU countries are regarded as separate legal entities and therefore have to apply for their own AEO certificate. A Czech permanent establishment is not considered as a separate legal entity and, therefore, it can be included in the request for AEO certification filed in the country where the company (founder) is established.



Self-assessment

A company applying for AEO status has to have a good compliance record to qualify. Part of the application for AEO certificate is therefore a self-assessment of the company.

As of January 2011 all EU Member States, except for the Netherlands, will start using the new self-assessment standard developed by the European Commission. Dutch customs will continue to request that a company established in the Netherlands submits current Dutch self-assessment unless the newly developed self-assessment becomes obligatory under the Customs Code.

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Regular overview of current grants from EU funds

The funds coming from the European Union constitute nowadays the main pillar of enterprise support from public sources in the Czech Republic. We are bringing you an overview of the current subsidy programmes from European funds that are intended for entrepreneurial entities.

Research, development and innovations support

It is possible to send full applications for the programme **Innovation** by **31 January 2011**. The programme is intended to support investments in product innovations (goods and services), production and service-rendering process innovations, and organisational or marketing innovations (introduction of new market channels). The eligible expenses are expenditures on long-term assets acquisition (with certain restrictions for large companies). For small and medium-sized entities, some services (e.g., special trainings, website design, etc.) and personnel expenses also fall into the category of eligible expenses. The subsidy can reach up to CZK 150 million depending on the region.

It is possible to send a registration application for the programme **Potential** intended for investments in founding or developing industrial research and development centres by **30 September 2011**. Acquisition of buildings and land, their technical appreciation and software purchase is also subject to the subsidy. Small and medium enterprises can also exercise some services as eligible expenses, e.g., consulting, personnel expenses or material costs. The subsidy for one project can reach up to CZK 200 million depending on the region. The applications can be sent by all companies regardless of their size. Nevertheless, Prague must not be the place of the project realisation.

Subventions for professional education of employees

It is possible to send applications by **31 October 2011** for subsidising employees' professional education within the programme **EDUCA**, which falls under the Human resources and employment operational programme. Only companies from certain industries (like processing, construction or the energy industry) can apply for this subsidy. Apart from the costs of employee training, the programme also supports creation of enterprise educational programmes and preparation of company lecturers. The maximum subsidy for one project equals CZK 8 million. Applications can be filed by all companies regardless of their size, and projects must be realised outside of Prague.

It is further possible to obtain financial resources for employees' education from the continuous call within the aforementioned programme that is oriented on projects supporting an increase in adaptability of employees of restructured companies. Applicants for the financial support can be professional and business associations. The support can be obtained especially for further professional education of employees, first of all on deepening, broadening, increasing, renewing or maintaining qualifications for further self-realisation on the labour market; it can also be obtained for modern education forms according to a specific employer's needs, granting salary contribution to employers who employ laid-off, disadvantaged employees, etc. The minimum amount of financial support for one project is CZK 500 thousand, and the maximum amount is CZK 10 million. The applications can be sent by **31 August 2012**.

Support for environmental protection

Enterprises may submit applications for a subsidy from an operational programme called **The Environment** for so-called large projects (over EUR 25 million) by **30 June 2011**. Subsidy can be obtained, e.g., to improve waste disposal, reduce of NO_x, SO₂ (especially from large, stationary sources) and invest in renewable energy sources (except for photovoltaic systems). The maximum grant per project is CZK 300 million.

Support for small and medium-sized enterprises

By **31 December 2010**, an application can be submitted within the third call of a programme called **The Progress**, which focuses on supporting the implementation of development projects of small and medium-sized enterprises. Eligible costs are expenses for acquisition or renovation of long-term tangible assets related to creation and development of business. Support is provided in the form of a subordinated loan of up to CZK 20 million (maximum of 75% of the estimated eligible project costs) with a fixed interest rate.

Within the call to the programme **Warranty**, small and medium-sized enterprises can submit applications for subvention in the form of a preferential warranty. The preferential warranty is up to 80% of the guaranteed loan principal. The enterprise finances only a part of the price of the warranty. Together with the provision of the warranty, the enterprise obtains a financial contribution to cover the remaining part of the price of the warranty. The eligible expenses which the guaranteed loan can cover are: acquisition and renovation of long-term tangible assets, purchase of inventories including small tangible assets and acquisition of small intangible assets. Applications for subvention are being accepted by **31 December 2010** in the branches of the Czech-Moravian Guarantee and Development Bank.

By **31 May 2011**, it is possible to file a registration application within the second call of a programme called **"The Innovation"**. Small and medium-sized enterprises may obtain a subsidy for projects for the protection of industrial property in the form of patents, utility models, industrial designs and trademarks, both abroad and in the Czech Republic. Expenses for patent attorneys, administrative fees and translations are considered eligible. A project must be implemented in the Czech Republic, excluding Prague. The project can be granted a subsidy of up to CZK 1 million.



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IFRS and US GAAP: Assets leased under operating leases will be recognised on the balance sheet

Companies entering into any form of leasing can expect big changes in the reporting and measurement of lease assets and lease liabilities. Users of financial statements should obtain a complete picture of an entity's lease assets and liabilities directly from its primary financial statements. The International Accounting Standards Board (IASB) published the exposure draft on lease accounting in August. The IASB and the US Financial Accounting Standards Board (FASB) have jointly prepared a draft standard on leases to develop uniform accounting for finance and operating leases.

The key objective of the new standard is to ensure that lease assets and liabilities

are recognised in the balance sheet of a lessee regardless of whether the arrangement is a finance or operating lease. The existing accounting models require that the lessee recognises lease assets and liabilities in the balance sheet from finance leases only. Operating leases are not currently recognised on the balance sheet and only information about future lease payments is disclosed in notes to financial statements.

Accounting changes for lessors are also expected. The exposure draft includes two models of lessor accounting that are dependent on the exposure to risks and rewards associated with the underlying asset. The first model is based on derecognition or partial derecognition of the leased asset from the lessor's balance sheet and recognition of a receivable, representing the right to receive rental payments from the lessee. According to the second accounting model, the underlying asset will remain in the lessor's balance sheet. The lessor will recognise

a lease receivable and liability, representing the obligation to permit the lessee to use the leased asset during the term of the lease contract.

The full text of the exposure draft is available on www.iasb.org and is open for public comments until 15 December. The final version of the standard is expected in mid 2011 with expected effectiveness from 2012.

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A window of financial services

Funds as the real income owner

This year, the Organization for Economic Cooperation and Development (OECD) released the proposed modifications of the official comments to the OECD model double tax treaty (Comments). A part of the proposed Comments modifications provides better assurance in the way of fund revenue taxation aiming to prevent different views of OECD member states on the same problems.

The key element of the proposed modifications is the discussion over funds' ability to exploit the benefits coming out of the double tax treaties. It is important to clarify, in this connection, whether the funds can be regarded as tax residents

of the state they have their seat in and as real owners of income flowing to them. According to the Comments, a fund that is a taxpayer in the country of its residence is regarded as a juridical person. It means in practice that, if the domicile country regards the fund as its taxpayer, other countries should accept this assessment as well.

This principle should also be applied when determining whether the fund is a tax resident in the particular country. The key point to be determined in this case is whether the fund is a transparent or non-transparent tax entity. A non-transparent entity is not regarded as a tax resident in the country of its domicile, because it is not a taxpayer in this country. It is important to realise that a non-transparent fund can also be regarded as a tax resident if its revenues are taxable but are subject to tax exemption. The Comments confirm, with respect to these cases, that tax residence

should be granted to these funds if the criteria that make tax allowances applicable for them are strict enough (for example, applicable only for regulated funds, etc.). In case the state does not agree with this conclusion, it should clearly communicate the disagreement during negotiation of double tax treaties.

Concerning the so-called "real owner" concept, there are different opinions on whether the real owner of the non-transparent fund income is the fund itself or its investor. The Comments state that the fund itself should rather be the income owner as the investors' status is very specific – these are the fund's managers who usually decide on the investment strategy and portfolio structure.

The Comments also encourage individual states to issue a guideline or notification on whether the funds established in the state can be seen, from a local perspective, as tax residents and as the beneficial owners of income for purposes of double tax treaties. According to an unofficial opinion of the Ministry of Finance, the Czech Republic has to accept the tax status of a foreign entity, which is determined by international legislation. For the purposes of double tax treaties, Czech investment and mutual funds are considered as Czech tax residents.

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Collective investment funds may become subject to higher taxation

The new version of the Income Tax Act that is currently in the process of discussion is going to introduce a range of changes for collective investment funds. One of the provisions in the current version of the Income Tax Act amendment will explicitly enable application of the 5 % tax rate on foreign regulated collective investment funds founded within the European Economic Area. Ratification of the mentioned provision would have a relatively significant impact on German-based collective investment funds. The tax offices have been attempting to tax their Czech capital gains at 19 %, thereby discriminating against the German-based funds compared to domestic funds (see the judicial decision of the Supreme Administrative Court 1 Afs 17/2009).

It was proposed in the amendment to the Income Tax Act to apply a withholding tax on distribution of dividends that were generated from interest revenues exempt from taxation. The effective taxation on an investor level would thus approximate a 20 % border. This provision has so far been excluded from the draft version during the external reflection process. However, it points at a trend which future legislation could follow.

It is possible that the changes in the taxation system of collective investment funds will have an impact on the development of this industry in the Czech Republic. An increase in the tax burden could result in the lowered attractiveness of collective investment, an outflow of investors from this type of fund and a possible end to the considerations that the Czech Republic could become a centre of collective investment in the Central European region.

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Owners of logistics and production facilities will have to re-measure and tax asphalt surfaces

The government has approved an amendment to the Real Estate Tax Act that will introduce a separate taxation regime for an estate's hard land surface. This amendment will have an impact especially on taxpayers who own extensive manufacturing and logistics facilities with asphalt or concrete surfaces, which in terms of individual civil law are not real estate, but only a modification of the land surface.

According to the amendment, a hard surface will be real estate which is registered in the Land Registry as other area, built-up area or courtyard used for business purposes or in connection to its purpose, and whose surface is reinforced by a building with no vertical bearing construction, and which is not subject to building tax. The critical criterion will be the size of the hard area in square metres. In respect of the definition of a hard surface, a building is defined as an outcome of construction activity according to the Building Act and not according to the definition of construction mentioned in the Civil Code, which defines constructions as immovable and separate subjects. If the hard surface was a separate piece of real estate within the meaning of the Civil Code, the taxation would not change. This means that the tax rate for hard surfaces will apply, not the building tax rate.

The tax rate on hard surfaces will be CZK 1 for land used for agriculture, forestry and water management, and CZK 5 in other cases. In case of combined usage, the hard surface will be subject to the higher tax rate.

In addition to the mentioned change, the amendment suggests some simplifications. Newly, when calculating the tax base, it will not be the real area size (that is not recorded anywhere) taken into account, but the size registered in the Land Registry. The amendment to real estate tax comes into effect according to the proposal on 1 January 2011. It is expected to bring both factual problems (to determine the real area of hard surfaces to date on 1 January 2011) and interpretation problems (identification of a sufficient degree of hardening and different usage of the term „construction“ under one law).

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A procurator cannot automatically represent a company without the other procurator in front of the financial office

A procurator should represent a company in commercial contractual relationships and other related relationships. But his competence does not include making managerial decisions on matters of internal operations, determining the future focus of the company or its management. A procurator is also not authorised to perform a company's duties and obligations which result from the public law. The Supreme Administrative Court (SAC) concluded this opinion in its recent adjudication. According to the SAC, a procurator cannot represent a company in the tax procedure on the basis of only general procurement. To do so, either he must have a separate power of attorney granted by a statutory body of the company, or such authorisation must be expressly stated in the decision of procurement.

We therefore recommend that, when a procurator is supposed to act for a company in dealings with administrative authorities, including the tax office, this mandate be expressly stated in the document of procurement, or the procurator should receive a special power of attorney from a statutory body of the company. This way, the company will avoid situations arising from the conduct of a person without proper authorisation to act on behalf of the company, including the refusal of the tax office to deal with a procurator during the tax procedure and also the possibility of invalidity of related decisions.

A fundamental change in the tax status of a procurator will bring a new tax rule from 1 January 2011. It will explicitly authorise a procurator as a representative of a company among others who are involved in tax administration without a special authorisation. This means that general procurement will be enough for a procurator to represent the company in the tax procedure. However, it may still produce confusion regarding the authorisation of a procurator to represent the company in dealings with other administrative bodies such as health insurance or social security administration.

Should you have any questions related this issue, do not hesitate to contact:

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End of classical light bulbs brings more obligations for producers

From 1 September, 75 WATT light bulbs stopped being placed on the Czech market. Thus, from now on, only their clearance sale from warehouse stock is possible. The prohibition, which arises from a regulation of the European Commission to launch 100 WATT bulbs on the market, has been valid since last year. Next year, the prohibition will affect 60 WATT light bulbs, and in 2012, it will affect 40 WATT bulbs. The transition to economic bulbs has a number of consequences for electro-equipment producers and importers. Unlike classical bulbs, the new ones contain mercury and are thus subject to electro-waste legislation.

Thus the Czech sellers will increasingly sell the luminaires which will be liable to the electro-waste legislation. They will have to adapt to the obligations and legal regime of this equipment, in particular to the fact that, if they sell electro-equipment not coming from producers who are duly registered with the Ministry of the Environment and who fulfil their electro-waste obligations, they will automatically appear in the position of the so-called producers who themselves must perform the relevant obligations.

Based on the Act on Waste, electro-equipment producers and importers have a number of electro-waste obligations. They must collect their used electro-equipment from final consumers, process it ecologically, inform the consumer about their role in this process, carry out registration with the Ministry of the Environment, record the amount of the electro-equipment placed on the market and report it to the Ministry of the Environment, etc.

They can fulfil the above-mentioned obligations themselves or through the so-called collective system. They must pay a recycling fee only to the collective system which has a licence for it granted from the Ministry of the Environment. If it be to the contrary, these are not tax-deductible expenses, and assertion of a fee paid in the wrong collective system can have an impact on the tax obligations of the company (paying off the income tax, sanctions).

A penalty of CZK 50 million is impending for a breach of the obligations.

For further information please contact:

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In cooperation with PricewaterhouseCoopers experts, PwC Business Academy has prepared another seminar on tax topics:

Transfer pricing

Expand your knowledge in transfer pricing! The best professionals from the area will introduce you to transfer prices from the theoretical and practical points of view.



When? Monday, 25 October 2010, 9:00–17:00

Who? The seminar will be led by **David Borkovec**, Partner in the Corporate Taxes department and **Jiří Dederá**, TLS Manager

Where? PwC Business Academy, Kateřinská 40, 120 00 Praha 2

Price: 7 700 CZK + VAT

This seminar will focus on analysing the tax and legal implications of transfer prices, providing you with practical examples on how to apply the arm's length principle, how to minimise the risks associated with potential additional tax assessments and, at the same time, how to maximise the tax optimisation in this field.

In October and November 2010 we are opening other open seminars, e.g., regarding International Financial Reporting Standards (IFRS):

Accounting Treatment of Leases (IAS 17, in Czech)	13 October
Hedge Accounting (in Czech)	14 October
IFRS for Year-End Reporting (in Czech)	19 October
FX Risk Management in Relation to IFRS (in Czech)	21 October
IFRS – Specific Issues in the Telco Industry	3 November
IFRS Framework and Foundations	5 November
IFRS 7 - Disclosure Requirements	10 November

You can obtain more information about every seminar by writing us at: business.academy@cz.pwc.com or by calling Helena Hrubesova on tel. +420 251 151 816.

For details, please see our website www.pwc.cz/academy.



www.pwc.cz/academy

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