

Tax & Business News

Tax, accounting, advisory and assurance newsletter

December 2010

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Dear business partners,

We are sending you the December edition of Tax & Business News in which we regularly bring you news from the area of taxes, accounting and financial advisory.

Because of the approaching end of the year, besides the usual news, we bring you a resume of 10 changes which occurred in 2010 and which, we believe, are worthy of your attention when preparing the tax return. In addition to these current issues, we prepared a summary of 11 important changes which await us in 2011.

You might have noticed in the media that in November, the fifth edition of the global survey "Paying Taxes", which was jointly prepared by the World Bank, IFC and PwC, and which presents an international comparison on how simple or complex it is to pay taxes in 183 countries, was published. Generally, it can be seen that corporate tax rates continue to decline, and the importance of these taxes in terms of budgetary income is decreasing. The tax burden is shifted for the long term to consumption – indirect taxes.

However, the total tax burden is not decreasing, just its structure has been changed. This trend will also continue in the coming years. The reasons are the efforts of governments to deliver stable and balanced public budgets. Individual states are therefore trying to relieve businesses by at least reducing the administrative burden and modernising the institutions that provide it. Here we still have a long way to go, and for the moment, the Czech Republic is placed rather on the lower ranks of the imaginary chart of countries "friendly" to its taxpayers. But on the positive side, during the last 5 years, the time necessary to meet the tax obligations of the model company has decreased by 35 %. A major shift towards better ranks can be expected in 2013, assuming the project of tax collection in a single place will be implemented and the new law on income tax will be passed in accordance with the already approved concept.

I hope you find this issue inspiring and interesting. Let me, on behalf of all PwC partners and employees, wish you Merry Christmas and Happy New Year!

Peter Chrenko
partner

Year 2010 in taxes ...

This year was not so rich in tax news. Nevertheless, amendments and case law brought some changes that could be reflected in the preparation of your tax return for 2010. The most important may be the following:

1. Super-fast depreciation

For fixed assets in the 1st and 2nd depreciation groups acquired until 30 June 2010, super-fast depreciation can be used allowing the purchase price of assets to be written off for tax purposes over the period of 12 and 24 months, respectively.

2. "Fine tuning" of thin capitalisation

Since 2010, the uniform rule for thin capitalisation is in effect regardless of the time when the contract for a loan or credit was signed, and/or an amendment to them. It ended the transitional regime applied in the years 2008 and 2009, when the so-called old (signed by the end of 2007) and new (since 2008) contracts were distinguished for the purposes of thin capitalisation.

3. Provisions for a debtor's insolvency.

From 2010, it is possible to create tax provisions for claims on debtors in insolvency upon the initiation of the proceedings, not at the beginning of the period of lodging the claim. This eliminates the risk of early creation of tax provisions.

4. Elimination of discrimination of tax non-residents

For the first time in 2009, residents from other EU member states were expressly permitted to submit a tax return for the tax liability on income from sources in the Czech Republic. This allows the taxpayers to apply income-related expenses as well. In those cases where their income was subject to the Czech withholding tax, they exercised the right to have the potential overpayment refunded.

5. Component amortisation so far only in accounting

An amendment to the accounting rules allowed the component depreciation of fixed assets based on the lifetime of each important component (e.g., elevators in office buildings). The aim

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was for Czech accounting to further approach the International Financial Reporting Standards (IFRS). This method, however, remained without any effect on taxes, which continue to depreciate each property component only as a part of the main asset.

6. Transfer pricing*

In the area of transfer pricing in 2010, there was a revised issue of the OECD Transfer Pricing Guidelines, whose main topic was transfer pricing in business restructuring and equality of all the methods for its determination.

7. Deductibility of interest on loans on dividend payments

The Supreme Administrative Court (SAC) made a major judicial decision that the costs of financing dividend payments are tax-deductible. So far, there is a judgement expected which would generally support the tax deductibility of expenses for all payments of components of a company's own capital, including capital stock and other capital funds.

8. How many types of assets does the building contain?

Another significant judgement of SAC in the year 2010 was the assessment of property, particularly buildings and their equipment, for tax depreciation

purposes. According to the SAC, individual assessment of each property is necessary, with regard to its purpose and the function for determining whether it is one or more pieces of property.

9. Extension of time limit for tax inspection

There are potential risks arising from a judgement of the SAC in the area of tax administration, pursuant to which the submission of an additional tax return automatically prolongs the time limit for a tax inspection up to ten years. With the advent of the new tax code by 2011, the risk should be eliminated.

10. VAT

Value added tax rates (VAT) have been increased from 19 % to 20 %, respectively from 9 % to 10 %. The Czech Republic has also implemented the so-called VAT package into the value added tax enactment. It has, among other things, changed the rules for determining the place of supply for services provided from/to another member state. For some services, there has been a change in their treatment in terms of VAT. The package also introduces the obligation to report the provision of certain types of services with the place of supply outside of the Czech Republic in the sales list, which is submitted only in electronic format. The

application for a VAT refund in another EU member state shall also be in electronic format only, in the country of residence of the applicant.

*New decrees of Ministry of Finance on transfer pricing rules take effect from January 2011

Three decrees on transfer pricing rules were issued by the Ministry of Finance (MF) on 1 December 2010: Decree D – 332 – Communication of the Ministry of Finance in respect of international standards application in taxation of transactions between related parties – transfer pricing, which replaces the Decree D – 258; Decree D – 333 – Communication of the Ministry of Finance in respect of the binding ruling on pricing between related parties, which replaces the Decree D – 292; and Decree D – 334 – Communication of the Ministry of Finance related to the scope of transfer pricing documentation between related parties, which replaces the Decree D – 293. The decrees take effect from 1 January 2011 and amend the transfer pricing rules published formerly.

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... and what awaits us in 2011

The most important expected change in 2011 is the new Administration of Taxes Code, effective from 1 January. It fully replaces the previous Administration of Taxes Act. In addition, a new tax administration body will be established, also from 1 January 2011 - the General Tax Directorate (GTD). Eight regional financial directorates and the Central Financial and Tax Directorate, which currently is part of the Ministry of Finance, will make up the GTD. The GTD will be a fully independent and will gradually transform into a single collection point (New Revenue Agency).

The VAT Act will also be significantly amended in 2011, most likely from 1 April 2011. Among the expected changes, if they eventually pass through the legislative process, we consider the most important to be:

1. Deferment of the entitlement to claim input VAT deductions.

The VAT Act amendment defers the entitlement to claim input VAT to the moment when the taxpayer receives a tax document.

2. Bad debt relief.

Creditors whose receivable is not paid will be allowed to claim a refund of VAT provided an insolvency proceeding against the debtor has been started and the receivable arose 6 months or more before the bankruptcy court decision.

3. Joint and several liability

VAT payers who purchase goods or services from other Czech VAT payers will be exposed to a potential liability to pay VAT if their supplier has not paid the output VAT and the purchaser knew, should have known, or might have

known that this would be the case.

4. Extension of the local reverse-charge mechanism.

A significant extension will be made to the domestic reverse-charge mechanism to cover supplies of emission permits and scrap.

5. Obligation to issue a „corrective tax document“ upon granting a discount.

VAT payers will have to issue a corrective tax document in all situations where they allow an additional discount or goods are returned.

6. Real estate tax and hard surfaces.

In the field of real estate tax, it is necessary to be prepared for special tax treatment of so-called hard surfaces, such as asphalted or paved storage and handling areas or parking areas.

7. Pension insurance and building savings.

In the area of employee benefits, the contributions by employers to pension institutions will be equalised. Contributions to these institutions from other EU Member States will be newly exempt. The state's contribution to building savings will be taxed at the single rate of 50%. Interest income from the building savings will be subject to income tax.

8. Ceilings for the public insurance premium payments will not be reduced yet.

In 2011, the ceilings for the public insurance premium payments will still be applied in an amount equalling six times the average wage. Considering the growth of the average wage, the ceilings for 2011 are again slightly higher than those for 2010.

9. Repeal of the income tax exemption for renewable sources of electricity and introduction of a special tax on solar power.

From 2011, tax exemptions for green energy are no longer valid. By contrast, a special regime for photovoltaic solar power stations will be introduced (including those that are already in operation), namely a special tax depreciation and a special levy of 26% of the purchase price of electricity.

10. Education support.

From 2011, the tax support of middle schools will be extended. The limit for donations relating to practical training is extended to up to 10% of the tax base. The amount of tax-deductible scholarships (also including undergraduate scholarships) will also be increased with effect from 2011.

11. Increase in the number of taxpayers using IFRS.

In the field of accounting, a wider range of entities will be allowed to use IFRS from 2011. Simultaneously, the number of entities which are obliged to consolidate will be reduced. The rules for assessing penalties in case of a breach of accounting rules will be changed, too.

The most significant changes brought by the amendment to the Income Tax Act

The legislative process passed an amendment to the Income Tax Act that will be effective from 1 January 2011. The amendment, among other significant changes, cancels an income tax exemption for the alternative sources of energy and introduces special rules for their tax depreciation. We commented on such changes in a special issue of Tax Flash, so we focus on other important changes.

Income tax for individuals

- The exemption for regular pension income will be abolished if the annual summary of income from employment, business and rent exceeds CZK 840,000.
- The scope of the exemption for contributions to pension and life insurance premiums for employees is being extended on the contracts with the pension entities in other EU Member States, Norway and Iceland.
- It is being explicitly stated that the adjustment of the so-called super-gross wage will also be applied to employees for whom the payment of compulsory insurance is not governed by domestic legislation or who are subject to compulsory social insurance abroad.
- It is also being explicitly stated that revenues from the rental of property included in individual's commercial property are considered as business income. So far, this approach had been applied solely upon interpretation of the Ministry of Finance, whereby it was problematic to apply lump-sum expenses. Reclassification of income to income from business activities is also important in terms of payment of social security.
- Income from employer contributions for one-off payments from pension insurance or payments from the early termination of pension insurance will be newly regarded as taxable income. The amendment is a reaction to the frequent situation where an employer pays pension insurance contributions for employees, whereby these contributions are exempt from taxation and, in case of a subsequent one-off payment or early termination of a pension scheme, the employee avoids the retroactive taxation of employer contributions. On the other hand, the amendment makes sure that no back taxes on the original contribution of the employer, including the associated interest, are in arrears.

- Deduction of interest on loans for housing purposes will be possible only if the construction itself begins not later than 4 years from the credit contract conclusion. If the conditions are not met, then interest deductions already realised will represent the taxpayer's income, which will be subject to taxation in the period in which the violation of conditions occurs. There will be no obligation to retroactively distribute the obtained income into separate taxable periods when the deduction was applied.
- The condition of having at least 90% of income sourced in the Czech Republic applies now not only for the ability to deduct mortgage interest from the tax base, but also the amount of gifts and pension or life insurance contributions paid by an employee.
- The annual tax credit per taxpayer will be reduced by CZK 1,200 only in 2011 (the so-called "flood" hundred-crown).

Corporate income tax

- In terms of support for education, the maximum deductible value of donations to secondary or higher vocational schools for practical training is being increased from 5% to 10% of the income tax base.
- In order to eliminate existing discrimination, the income tax rate of 5% will also be applicable to collective investment funds from other EU Member States, Norway and Iceland under similar conditions as for Czech investment and mutual funds. But unofficially, the Ministry declared its desire to avoid the application of that rate in cases where the primary reason for establishing a collective investment fund is tax optimisation.
- The tax credit equal to half the tax for taxpayers who have at least 25 employees and at least half of them are disabled is being abolished. The Ministry said there are other forms of support for disabled people, and that the abolished advantage served in practice only for tax optimisation.
- Obtaining dividends and selling shares in subsidiaries that are in the process of liquidation continue to be taxable. Such restrictions, from our point of view, neither comply with EU rules, nor does the explanatory report explain the reasons which led the Ministry of Finance to maintain the current arrangements.

Common provisions

- When using component depreciation in accounting, the amendment explicitly states that this method does not affect the determination of the tax base. This conclusion, however, already follows from the present legislation.
- It is newly established that in the event of a breach of the conditions for deductibility of rents in case of subsequent purchase of the lease item, the non-deductible rent will be credited to the tax base of the year in which it

came to the breach, without the need to go to past and file additional tax returns for all past periods in question.

- A taxpayer and his successor will be able, under the new amendment, to reduce the tax base by the value of liabilities which are more than 36 months overdue, whereby they originally increased the tax base and then were subsequently settled. Permission of a legal successor to reduce the tax base was not explicitly allowed in the text of the Act and had so far been only inferred from its interpretation.
- Newly, incentive allowances for students who are preparing for careers within a contract with the taxpayer can be considered as tax-deductible costs. The aim is to promote vocational education; however, the link to future employment with the taxpayer may be legally problematic.
- Opportunities for the tax deductibility of write-offs in specific cases is being extended as the condition of the ability of forming adjustments to written-off receivables has been abolished. Instead, it is being stipulated that the tax-deductible write-offs cannot be made on receivables acquired free of charge or from related persons. The new ruling therefore allows a tax write-off also for receivables with a book value of over CZK 200,000 which are under legal proceedings, and also for claims which are less than 6 months overdue, where no tax adjustments can be made, so no tax write-off is possible.
- A new condition for a minimum lease term has been established, which is equal to the minimum depreciation term for assets in the 4th and 5th depreciation group which have been acquired under a finance lease. For property in the 2nd and 3rd depreciation group, it is further possible to shorten the minimum period of financial leasing by up to 6 months of a minimum depreciation term of the leased assets.

It is clear from the above that the main purpose of the amendment is in particular elimination of existing legislative inaccuracies. With the exception of adjustments for solar power plants, the amendment does not bring any significant amendments to the current version of the Act. Major changes should come up with the new Income Tax Act, which is not likely to be adopted earlier than 1 January 2013.

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Don't forget about research and development costs when summarising tax liability at the end of the year

A few support programmes for research and development projects currently exist in the Czech Republic. These programmes take either the form of tax relief, which aims to save on income tax, or the form of partial funding of projects under grant programmes. Given that the tax and subsidy programmes cannot be combined, it is necessary to assess each R&D project in terms of maximum achievable support from public sources. With the approaching end of the calendar year which is equal to the taxable year for most taxpayers, we recommend that you evaluate whether your activities have the character of research and development and whether the related tax base reduction can be applied.

Tax support

The tax support allows you to deduct the cost of research and development from the tax base. This support is not limited by sector, size of the taxpayer or a maximum value. However, it must be research and development, rather than a mere innovation or an upgrade of existing products or production processes.

The hallmark of research is systematic and creative work that enriches understanding and allows confirmation, supplementation or refutation of acquired knowledge. The basic criterion for distinguishing research and development from other activities is the presence of a valuable element of novelty and clarification of research or a technical uncertainty. Therefore, research and development activity is neither of an innovative nature which does not include a significant element of novelty, nor mere administrative support of research and development.

In particular, materials, personnel costs and related tax depreciation of fixed assets are considered as tax-deductible costs. On the contrary, the costs of services provided by third parties are not deductible. Another deductibility condition is keeping proper documentation, particularly the written processing of a research and development project.

In case of doubt as to whether it is possible to deduct research and development costs from the tax base, you can ask the Tax Office for a mandatory assessment of whether the conditions imposed by law are met. This assessment gives an assurance that the deducted research and development costs will not be challenged by the tax authority in the future. According to PwC's experience, the research and development tax allowance is applied mostly in the research and development of drugs and medical devices, software and prototype development and testing of industrial products.

Financial support from EU funds

Out of the EU funding programmes, the Potential programme is currently open. Its aim is to create or expand capacities focusing on the research and development of products or technologies, if there is assumption for their use in production.

The programme can be used to acquire new investments in research and development centres. This subsidy may be used for acquisition of machinery and equipment, buildings and land and intangible assets such as software and patents. Small and medium-sized businesses can also finance selected operating costs from the programme. The main condition is that the project must be realised in the Czech Republic outside of Prague.

The registration applications can be submitted until 30 September 2011 (full applications by 30 November 2011) and support for one project can reach up to CZK 100 million, or CZK 200 million in regions with higher unemployment. The total grant amount reserved for this programme equals CZK 3 billion.

Financial support from the state budget

In order to support research and development, a special programme TIP has been opened by the Ministry of Industry and Trade for the period of 2009-2017. The aim is to promote applied research and experimental development. Acceptation of applications is conducted annually through public competition, with the results valid for the following year (the deadline for support applications for 2011 was 16 July 2010). It is expected that the deadline for submitting applications for support of projects implemented in 2012 will be mid-2011.

The support is provided in the form of a block grant programme for the project. The main criteria in evaluating applications are facing the future, economic significance and applicability of solutions. The support is mainly focused on the development of new materials and products, new advanced technologies and new information and management technologies. The programme can be used to acquire fixed assets and intangible assets limited to 20% of the total eligible costs.

If your company carries out activities that meet the characteristics of research and development, and you have still not taken advantage of tax or grant allowances, we shall be glad to discuss opportunities of support from public sources with you.

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New rates for Travel

The Ministry of Finance CR issued a new regulation on daily meal allowances for foreign business trips in 2011.

There are no major changes concerning the amount of daily meal allowances as compared to the year 2010. Just in case of Myanmar (Burma), the currency was set back to the US dollar.

Through its regulation, the Ministry of Labour and Social Affairs adjusted the daily meal allowances for domestic business trips and changed the basic rate of compensation for using personal cars.

From 1 January 2011, the daily meal allowances for domestic business trips will be increased by amount varying from CZK 2 to CZK 3 for various durations as compared with the previous status. This change also influences the limit for the tax deductibility of subsistence benefits for meals provided by a third party (e.g., luncheon vouchers).

From 1 January 2011, the basic rate of compensation for using personal cars decreases compared to the year 2010 to CZK 3,7 per kilometer of a journey.

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EU importers will have to submit Entry Summary Declarations from January 2011

From 1 January 2011 traders who import goods into the EU will be obliged to lodge with the respective Customs Authorities an Entry Summary Declaration (ENS). An ENS will be submitted electronically via the so called "Import Control System" (ICS).

On the basis of data received from these reports, the Customs Authorities in the EU will perform a risk analysis in respect of goods imported in the EU.

In most cases, an ENS will be lodged by the carriers, or by other persons approved by a carrier. For this it is necessary that the importer can provide its carrier with all data required to submit an ENS.

The same obligation will also be applied as of 1 January 2011 to exports of goods. Traders or carriers will be obliged to lodge an Exit Summary Declaration (EXS) to the Customs Authorities using the "Export Control System".

Based on the above we recommend that businesses should contact their carriers, and their customers and suppliers in third countries.

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Supreme Administrative Court:

Adjustments made on leased assets can be subject to VAT

Nejvyšší správní soud (NSS) vydal nedávno The Supreme Administrative Court (NSS) has recently issued a decision assigning an obligation to the lessee to examine whether reparation, adjustments and changes made on assets in the course of a lease can be subject to VAT upon termination of the lease.

The lessee leased facilities which he was improving in the course of the lease. During the improvements he claimed the full input VAT deduction, evidenced the technical appreciation in his business assets and tax depreciated the assets. Upon termination of the lease, the lessee and the lessor undertook financial compensation by compensating for mutual debts. The lessee accounted for a receivable consisting of the improvement made on the leased assets, and the lessor accounted for a receivable consisting of the unpaid rent. The lessee considered the mutual debt compensation as financial compensation which is not subject to VAT.

However, according to the tax administrator, the technical appreciation was in fact a taxable supply which can be considered for VAT purposes as a service provided by the lessee to the lessor. The lessee did not agree with this opinion and argued that the VAT Act does not explicitly consider the execution of technical appreciation on leased assets as a taxable supply. Moreover, a service is defined for VAT purposes as an activity other than supply of goods or conveyance of real estate and upon termination of the lease, the lessee did not perform any activity on behalf of the lessor.

The NSS confirmed the opinion of the tax administrator that, upon termination of the lease, the lessee effected a taxable supply. Furthermore, the NSS stated that, while interpreting legal provisions, the lessee cannot rely only on the wording of the law, but the meaning and purpose of the legal provisions must also be taken into account.

According to the NSS, it is not essential that the VAT Act effective 1 May 2004 does not explicitly regulate the regime of taxation of technical appreciation because a general provision can be applied to this situation. The NSS admitted that this situation cannot be seen as the provision of a service by the lessee to the lessor; however, according to the NSS, the lessee granted a right to the lessor to use an object or other asset which falls within the scope of VAT according to the VAT Act.

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VAT - Clearing vs debt collection

The European Court of Justice (ECJ) in the judgment C-175/09 Axa UK Plc held that VAT exemption is not applicable to the service of transferring payments between parties where the service consists of payment processing and is encompassed by the service of debt collection or factoring. The ECJ ruled that in the case of Axa the nature of the transaction was one of debt collection rather than payment and transfers and, therefore, VAT exemption is not applicable. According to the provisions of the Sixth VAT Directive exemption from VAT does not cover a supply of services which consists of requesting a third party's bank to transfer to the service supplier's account, via the direct debit system, a sum due from that party to the service supplier's client, in sending to the client a statement of the sums received, and in making contact with the third parties from whom the service supplier has not received payment.

This judgment could have an impact on a wide range of sectors, but especially on companies that provide other services in addition to the movement of money. There is a risk that the nature of the service ceases to be a financial service which could cause changes in application of the VAT exemption.

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The Ministry of Finance has confirmed the discrimination approach to tax non-residents in terms of losses from sale of shares deductibility

According to the Ministry of Finance (MF), for companies that are not Czech tax residents and are not obliged to keep their accounts according to Czech accounting standards, including the revaluation to fair value, a loss from the sale of shares cannot be tax-deductible. This also applies if the company revalues the shares to fair value in accordance with other than the Czech accounting legislation. According to the MF, a foreign entity is not in a comparable position with a Czech entity, so the relevant provisions of the Income Tax Act (ITA) on accounting for a tax loss on the sale of the shares cannot be used.

PwC tax professionals initiated a discussion in the framework of the Coordinating Committee with the MF regarding the eligibility of the acquisition price of shares in Czech companies where the shares are bought from a foreign entity – a Czech tax non-resident who does not keep its accounts under Czech accounting standards. The discussion dealt only with a transfer of shares that does not qualify for the exemption of income from transfer of shares under the ITA. According to PwC experts, the interpretation of the MF appears to be discriminatory towards tax residents of other Member States of the European Economic Area (EEA) with regard to the principle of free movement of capital, as residents of other EEA Member States are being put in a worse fiscal position than comparable tax residents, persons who are regarded as accounting units according to the Czech Accounting Act.

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First phase of IFRS 9: changes in own credit risk will not be presented in profit or loss

Any changes in the fair value of financial liabilities – if measured voluntarily by fair value - between the acquisition and reporting date triggered by changes in the reporting entity's credit risk will be reflected in the statement of other comprehensive income rather than in profit or loss. This is one of the few changes in the rules for measuring financial liabilities in the first phase of IFRS 9 recently completed by the IASB. The new standard on financial instruments replacing IAS 39 concerning classification and measurement of financial liabilities will become effective for periods starting on or after 1 January 2013, earlier application is permitted.

Therefore the profit as the primary measure of performance will be isolated from the effects of changes in the reporting entities own credit risk without affecting the fair value of financial liabilities presented on the balance sheet in line with the standard understanding of the fair value definition.

IAS 39 bifurcation rules for embedded derivatives are retained in the new standard, particularly to avoid the fair value measurement of the host instruments.

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Changes in employees' posting

If you hire an employee with a regular place of work abroad, there is a new regulation stating that the employment contract may be concluded for a definite time period, e.g., for a period of his posting to carry out the work abroad. Such a contract may be concluded for a maximum period of 5 years. This period may be further prolonged, however, only for maximum of another 5 years.

Moreover, an employer may require its employees abroad to carry out work on the days which are public holidays in the Czech Republic. In this case, the employer has to render for such day one day of holiday during the days which are public holidays in the respective country abroad. The new regulation shall be effective as of 1 January 2011.

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Personal appearance necessary to get a visa

From next years, in order to apply successfully for a Czech long-term residence permit or a visa, foreigners from non-EU countries wishing to stay (reside) in the Czech Republic will be obliged to visit the respective Czech authorities in person. The current practice of representation in front of the authorities, based on a power of attorney, will no longer be possible. Moreover, the additional obligatory fingerprinting as of May 2011 will raise the number of necessary visits to the authorities to as many as three.

The changes are included in the amendment to the Act on Foreigners*. The original aim of the amendment was to transpose relevant European legislation; however, state budget cuts caused the Ministry of the Interior to become responsible for all long-term stay issuance competencies from the Foreigners' Police Office earlier than previously planned (originally planned as of 2013).

What else will the new legislation bring? Based on the directive on employer's

sanctions** employers will become criminally liable when employing foreigners staying in the Czech Republic illegally. Up until now the employers were responsible for obtaining the work permits for their employees only, however the directive on employer's sanctions presumes that they will also be responsible for valid visas of their employees residing in the Czech Republic. Additionally, employers will be obliged to cover expenses of the foreigner's expatriation in case the foreigner would not leave the territory after expiry of their residence permit. Further, employers may have to cover health insurance expenses of the foreigner if dismissed before the expiry date of the work permit and if the foreigner does not leave the Czech Republic within legal time frame.

The amendment also introduces a new permit for non-European citizens, the so-called blue card, which combines work and residence permits and allows easier access to the Czech labour market. The blue card is aimed at highly qualified foreigners who find an appropriate job position in the Czech Republic. It supplements already existing permits in

the form of a green card, which offers the possibility to fill up job vacancies that cannot be occupied by Czech or EU citizens.

The amendment also raises the limit of the health insurance coverage for one incident from € 30,000 to € 60,000 for the purpose of a foreigner's long-term residence. Such insurance must cover complex healthcare.

The amendment to the Act on Foreigners should enter into force as of 1 January 2011.

*(Act No. 326/1999 Coll., Act on the Residence of Aliens in the Territory of the Czech Republic)

** (no. 2009/52/EC)

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The 2009 VAT refund claim deadline extension was confirmed by MF

The Ministry of Finance has issued guideline D - 343 confirming the extension of the deadline for filing VAT refund applications until 31 March 2011. The extension of the deadline is imposed by an EU Council directive. Further information can be found in our **Tax Flash**.

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Venture capital fund as a new tool for business support in the Czech Republic

The Ministry of Trade and Industry (MIT) has published a plan to create a new independent venture capital fund, through which the state would be purchasing shares in companies with innovative projects.

The main objective of the fund is to support innovative start-up companies in their efforts to apply the results of research and development in practice. It is envisaged that the fund will be created mainly from the EU funds, namely the Operational Programme Entrepreneurship and Innovation, and partly from the national budget. Private investors are also participating in it. At the beginning, the fund should possess an amount of about CZK 1.2 billion.

Operation of the fund will be based on the idea of equity inputs, when the state sells its share over time, ideally at a profit, and thus valorised resources will again become the fund's income. The principle therefore implies that it is necessary to count on the fact that not all projects will be profitable for the fund. To reduce this risk, the state intends to invest rather lower amounts, but in a larger number of firms.

The Czech Republic will, by means of the fund, expand its support tools for a knowledge-based economy and rank among the other countries, such as France, Cyprus, Slovakia, Poland and Hungary, where such funds are already operating. More detailed information on this special fund will probably be published by the MIT early next year.

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Will the EU abolish duties on monitors, set-top boxes, and multi-functional printers in the EU?

The European Union's duty treatment of monitors, set-top boxes, and multi-functional printers violates the Information Technology Agreement (ITA) issued by the World Trade Organization (WTO), under which IT products are not subject to duty. This decision was made by the Dispute Settlement Body (DSB) of the WTO based on a complaint filed by the U.S., Japan, and Taiwan. According to DSB the European Union is obliged to bring the duty treatment in line with the ITA.

The European Commission is currently considering what arrangements need to be adopted to bring its practices in the field of Customs procedures in line with the DSB findings. Initial information indicates that the Commission may seek to apply an adjustment of the duty affecting the future import of monitors, set-top boxes, and multi-functional printers, so as to resist potential applications for retrospective refund claims for already paid Customs duties. It is thus likely that the DSB decision will not have retroactive effect.

We will inform you about further development in this area in the next TBN.



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The pending amendments may postpone the effectiveness of the VAT Act amendment for three months

The Czech Parliament will discuss at its current session the following amendments to the VAT Act:

- postponement of the effectiveness of the VAT Act amendment to 1 April 2011;
- supply of fuels will not be subject to the local reverse charge;
- when selling goods subject to excise duty which are under the excise duty suspension system, the excise tax will be newly included in the tax base; since the excise tax is almost half the price of the product in some cases, this change can have a negative impact on cash flow for many companies;
- when equalizing VAT deduction for 2011 the tax payer will proceed according to the wording of the VAT Act amendment upon its effectiveness, it means that settlement coefficient will be set in compliance with the amended VAT Act.

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The EU is considering relaxation of the rules for interest and royalties exemption

The European Union is considering loosening the conditions for withholding tax exemption of interest and royalties paid to recipients in other EU member states in order for them to reach at least the level of conditions for dividends exemption. As we have already informed, from 1 January 2011 a withholding tax exemption on interest and royalties will be applied for payments between a parent company and a subsidiary or between affiliated companies under the condition that the parent company holds a share of at least 25% for at least 24 months. The exemption possibility is further bound by the decision of the competent tax office.

Based on the experience of the EU Member States, a discussion regarding needed changes in the existing arrangements was launched. It comes out from the discussion (in which PwC is actively participating) that the changes should mainly cover the following areas:

- Extend the exemption on capital indirectly related persons (currently subject to direct equity participation, which means application of the exemption on the parent, respectively subsidiaries and affiliated companies)
- Reduce the minimum share capital from 25% to 10% (the 10% rule is already being applied to dividends and the sale of a stake in a subsidiary).
- Extend the exemption to other legal forms of companies (EU Directive on the exemption of dividends is applicable to a wider range of legal forms of companies in different EU member states than the EU Directive on the exemption of interest and royalties).

It is not yet clear which of these EU requirements will be heard and when the existing Directive will be amended. It can be assumed that the result of the discussion will extend opportunities for tax exemption, which should lead to further elimination of barriers to mutual trade within the EU.

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PwC Business Academy is coming with some news in its training portfolio for 2011.

In the spring months we are launching a number of **new international qualifications**. Our mission is to bring the recognised international certifications to the Czech market and help support the development of various professions here. Let's not stay behind the development of the western countries.

What qualifications can you expect in our portfolio in the upcoming months?

CIMA (Chartered Institute of Management Accountants) – qualification preparing specialists in management accounting who are able to interpret financial information and make the right business decisions.

CIA (Certified Internal Auditor) – is addressed to the professionals who would like to pursue the world's premier certification in Internal Auditing.

CISA (Certified Information Systems Auditor) – is worldwide qualification for those who control, monitor and assess an organisation's information technology and business systems.

CIPD (Chartered Institute of Personnel and Development) – professionals working in human resources also have the qualification that opens an international perspective for them. CIPD helps HR managers to become a better business partners to the top management.

The ACCA (Association of Chartered Certified Accountants) – qualification is a globally recognised, number one choice for professionals who seek a rewarding career in accountancy, finance and management. With preparation to this qualification, we have many years of experience and are proud that pass rates of our students are 20% higher than the global average. Join our successful ACCA programme NOW! The deadline for registrations is on 31 December 2010.

Contact us for more information at: business.academy@cz.pwc.com or call Jan Hrubý who can discuss further details with you, (tel. +420 251 152 030). You can find also further information on our website www.pwc.cz/academy.



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