

# Tax Flash

Czech Republic, 26 February 2010

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## Employers' social security contributions for the first half of 2007 will not be refunded

The Supreme Administrative Court has decided yesterday in the case of Ježek software on the issue of employer social security contributions in the period from January to June 2007.

In the respective case, Ježek software drew attention to the problem of the Social Security Act, where the definition of the assessment base for employer's social security contributions was missing in the period from January to June 2007. Based on the missing definition of the assessment base, Ježek software did not pay any employer social security contributions for the respective period. The correctness of its approach was subsequently confirmed by the District Court in Ústí nad Labem in legal proceedings with the Czech Social Security Administration. However, the Czech Social Security Administration filed a cassation complaint with the Supreme Administrative Court.

Further to the above case, which was widely discussed in the media, thousands of firms applied for a refund of social security contributions for January – June 2007. Other companies are considering making this step.

**The Supreme Administrative Court has, however, reversed the ruling of the District Court in Ústí nad Labem and remitted the case for further proceedings.**

Based on the reasoning of the Supreme Administrative Court, the missing definition of the employer's assessment base could have been unambiguously derived from the definition of the employee's assessment base. In other words, the basis for the remittance of employer social security contributions was implicitly included in the Social Security Act. The Supreme Administrative Court, thus, did not acknowledge the argument of Ježek software that the law was not explicit enough, and that the obligation to pay employer social security contributions could not be imposed.

**The Supreme Administrative Court, thus, confirmed the approach of the Czech Social Security Authorities, and the District Court is bound by this decision.**

Ježek software has already indicated that it is ready to proceed with the dispute as far as the Constitutional Court, which of course could reverse the decision of the Supreme Administrative Court. However, at the moment, it appears that, at least until a potential positive decision of the Constitutional Court, no employer social security contributions for the period from January to June 2007 will be refunded.

Should you wish to discuss the impact of the Supreme Administrative Court decision on your company, please contact Petr Frisch, Ivana Vágnerová, or your usual contact person in PricewaterhouseCoopers.