

# Tax Flash

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Tax Flash is an electronic newsletter prepared by PricewaterhouseCoopers Česká republika, s.r.o. to keep you up to date on the latest tax and legal news. A more complex look at key tax changes and their impact on your business is provided in our monthly newsletter, Tax & Business News.

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## Ministry of Labour and Social Affairs press conference

The Ministry of Labour and Social Affairs held a press conference today to address the issue of a potential refund of employer's social security insurance contributions for January - June 2007.

### The Ministry:

- confirmed the deadline for application for the refund until the end of 2012;
- informed that there were already more than 4,600 applications filed for a total of CZK 12,5 billion;
- stressed that the Ministry position is unchanged and claimed that there is no legal basis for the application;
- informed that the Social Security Authorities will deny any application filed and that the Authorities will use all available legal arguments to protect the state budget;
- pleaded for the companies not to hurry with the applications in order to allow the Social Security Authorities to focus on their normal agenda;
- informed that a working expert group consisting of the employees of Ministry of Finance, Ministry of Labour and Social Affairs, employer's organizations and Tax Advisors Chamber was created to discuss the Government's approach towards the issue and the applicants;

The employer's organizations representatives informed that they will seek Ministry of Finance approval for those business that have already applied for a refund not to have to refile their 2007 corporate income tax returns until the application has been decided.

### PricewaterhouseCoopers additional information

We appreciate that the Ministry confirmed PricewaterhouseCoopers' previous stance that there was no need to file the application before the end of last calendar year.

For your information the Supreme Administration Court is due to decide on this matter likely in January or February 2010. However, if you are now evaluating whether to make an application for a refund at this stage, we would like to draw your attention to several issues while considering the position:

**Due to the fact that the decision of the Regional Court has been appealed it is unclear at this stage as to whether that decision will ultimately be upheld.**

It is now confirmed by the Authorities that an immediate application for a refund will be acknowledged but not satisfied. However, it is worth noting that a European Court of Justice case has in the past suggested that the right for a refund in a case such as this could be limited only to those who applied for it before the final judicial decision was issued. This should be balanced against the clear statement from the Government today that the deadline for applications will be the end of 2012.

The tax impact of any refund will need to be considered on the grounds that the contributions would have been treated as a tax deductible expense in 2007. It is uncertain at this stage whether an application for the refund, if ultimately processed, would generate taxable income for the company in the year of receipt, or whether an amended 2007 income tax return would need to be filed.

Given the above, the ongoing dialogue in the media and the Government confirmed view that the contributions were due and payable, there remains much uncertainty as to the best course of action. Unfortunately, at this stage it is not possible to second guess the court's decision nor the Government's response should the case be found against them.

If you would like to discuss any of the issues related to the potential refund of social security contributions, please call your usual contact person at PricewaterhouseCoopers or Petr Frisch at +420 251 152 546 or Ivana Vágnerová at +420 251 152 543.