

Tax, Legal & Business News

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Tax, legal, accounting, advisory and assurance newsletter

Summer 2012

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Topic of the month

Employee ill during vacation? Are they entitled to its compensation

The European Court of Justice (ECJ) once again addressed the question of the temporary incapacity for work during vacation. It has already expressed the opinion that the employee that is effected by a temporary incapacity during vacation shall be entitled to choose on his request this vacation in a another period.

The judgment from June of this year specified that it does not matter whether the temporary incapacity begin before or during the vacation. If an employee takes a few weeks vacation and during the vacation he becomes temporarily incapable

of working for a few days, these days cannot be considered vacation. It is therefore necessary upon request to provide replacement vacation. Based on the opinion of

ECJ the purpose of vacation is to allow the employees to rest and have time for relaxation and non-work interests which in the temporary incapacity for work is not possible.

The decision, therefore, suggests that employers should keep track of whether the incapacity during vacation is reasoned or is a deliberate extension of the time outside work by the employee.



Roman Cholasta
+420 251 152 952

Petr Kincl
+420 251 152 905

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If you are interested in receiving Tax, Legal & Business News, please contact Ondřej Hubatka, ondrej.hubatka@cz.pwc.com.

Tax

Can portfolio management be subject to VAT?

The European Court of Justice (ECJ) decided that DIM (Discretionary investment management services) are not VAT exempt and create one taxable supply. Deutsche Bank AG within this operation provides the service of buying and selling shares at its own discretion but in accordance with the strategy chosen by the client. At the same time it provides the analysis and monitoring of the securities. The ECJ decided that these services provided by Deutsche Bank are that closely linked that they create one taxable supply. By ordering the DIM the investor requests not only the analysis and monitoring but also the sale and purchase. These services therefore cannot be taken separately. ECJ decided that DIM is not VAT exempt based on EU VAT Directive at the same time.

[Martin Diviš](#)

+420 251 152 574



[Tomáš Hunal](#)

+420 251 152 516

Pension reform before the start. New obligations await us

The Chamber of Deputies outvoted Senate's veto so the pension reform starts and it will be possible to opt-out 3% of social insurance to private individual pension accounts from 1 January 2013. The condition is an additional own payment of 2% of the basis for the calculation of social insurance.

The employer whose employees decide to go to II. pillar will have new responsibilities, e.g. payment of the monthly advances on the premiums, submission of an electronic monthly insurance report and annual insurance statement. The administration of insurance premiums payments to II. pillar will be handled by the financial authorities. Employers that will pay the premiums for their employee will be required to set up processes for its correct collection and payment.

What is new in the EU with regard to social security rules

Norway, Liechtenstein and Iceland joined the amended EU regulation coordinating the rules applicable in the field of social security as of 1 June 2012. From this date these countries shall act in the field of social security and health insurance according to the same rules, updated in May 2010, as EU Member States. Application of same principles and current provisions will affect in particular individuals who are newly dispatched to work in those countries. Further change applies on the rules for determination of the country to which the insurance is to be paid. This concerns situations where an employee is working in two or more EU member states for the same employer or in situations where a person is employed by two or more employers in different countries of the EU.

In these cases it is necessary to determine if the employee performs a significant part of the working activities in the country where he lives and how many employers he has in the various member states. On the basis of such an assessment only one country in which the employee and his employer(s) will pay the insurance premiums is determined.

[Tomáš Hunal](#)

+420 251 152 516

Accounting

Management's commentary required for mergers

For transformation of companies (merger, spin-off, de-merger) management is obliged to prepare opening balance sheet as at the decisive date of the transformation and commentary to this opening balance sheet. The commentary now replaces the previously required economic part of the transformation project and must include at least the following: a description of the transfer of individual items from the closing balance sheets of all participating companies to the opening balance sheet of the successor company and a description of relating. This requirement arose from the amended Act on Transformations.

When a statutory audit is required for at least one of the participating companies based on the Act on Accounting, then all participating companies are required to have their closing financial statements audited. Furthermore, a statutory audit is also required for the opening balance sheet. An audit opinion is issued with respect to the opening balance sheet, however, not on the management's commentary where the auditor is only obliged to check its consistency with the opening balance sheet. If no material inconsistency is identified, then no report is issued with respect to this work performed.

The opening balance sheet is a specific form of financial statements consisting of two parts – the balance sheet and the notes to the opening balance sheet. The notes to the opening balance sheet contain at least the following: a description of the company and its transformation along with relevant accounting policies. However, in defined situations such as spin off or de-merger, the notes also contain supplementary information about individual material lines of the balance sheet (similarly to notes to year-end financial statements).

[Martina Chrámecká](#)
+420 251 152 238

[Petr Kříž](#)
+420 251 152 045



Employees

Foreign managers do not have to deal with the recognition of foreign education

We were pleased to report positive change with regard to obtaining and extending of work permits for foreign employees this August.

Foreign employees who move within one company need not deal with the recognition of their qualification with Czech educational institutions. Nostrification or recognition of foreign education is also not required for managers and executives. This requirement was also cancelled in case of extension of a work permit from 20 August 2012.

Nostrification is still required regarding first work permits for specialists regardless of their profession.

[Jana Zelová](#)

+420 251 152 567



The basic registry will limit the necessity to visit several authorities

The ministry of the Interior started the live version of the basic registries project on 1 July 2012. The administration is divided into:

- Registry of persons
- Registry of territorial identification of addresses and real estate
- Registry of rights and obligations
- Registry of residents

Recently often discussed Registry of vehicles is not part of the basic registries administration. The Registry of residents is the most significant for the citizens of the Czech Republic and foreign nationals who are staying in the Czech Republic in the long term because the interconnection of public authorities and their agendas will limit the necessity to visit „particular authorities“. An example could be a situation when an individual changes the address of his residence in the Czech Republic and reports it at the relevant registry. This change should subsequently be transferred to a single Registry of residents which should be available to all public authorities, e.g. the Labour Office, the Czech Social Security Administration, etc. A similar procedure applies on foreign nationals who report a change at Asylum and Migration Policy Department of the Ministry of the Interior. This department will forward the change to other authorities similarly as the registry in the case of a citizen of the Czech Republic.

The Registry of residents is the only registry that is not public due to the sensitivity of the personal information.

The operation of the system of basic registries is currently in the early days therefore all its functionalities and capacity are not fully used. The registries are not yet fully linked with the financial authorities, banks or health insurance companies.

Further information on registries could be found at www.szcr.cz.

[Jana Zelová](#)

+420 251 152 567

When travelling to exotic countries you must have the Yellow card

Citizens of the European Union and even those who are only staying in the territory of the EU can newly experience the requirement to present the international vaccination certificate – Yellow card when processing the visa applications to exotic destinations (such as countries of tropical Africa and America). It is possible to obtain the card, even on the basis of power of attorney, in the closest vaccination centre after the presentation of the statement of the vaccination.

Yellow card is issued the next day after the application. The international vaccination certificate may also be issued to a citizen who has not any vaccination yet. However, before the card is issued the requestor must undergo a compulsory vaccination against yellow fever. Without this vaccination an international vaccination certificate cannot be issued.

[Jana Zelová](#)

+420 251 152 567

Study

“Banana Skins” – Czech bankers are mostly concerned about the uncertain progress of the economy and the excessive regulation



Macroeconomic risk, regulation and credit risks are the greatest threats currently facing the Czech banking sector. It has been showed by up to date survey „Banking Banana Skins“ carried out by the Centre for the study of financial innovation (CSFI) in cooperation with PwC.

Comments Petr Kříž, PwC Czech Banking & Capital Markets Leader.

1. Macroeconomic development

„The performance of the Czech economy is heavily dependent on the condition of the European economy and the political solution to the debt crisis. The correct combination of the management of the budget deficit and growth incentives is key for continued profitability and stability of the banking system.“

2. Over-regulation

„The regulation continues to be cause for concern, particularly in combination with the risk of political interference. There is a number of global and European regulatory initiatives and there are no reliable assessment of the combined effects of all the proposed measures.“

3. Credit risk

„The Czech banking sector successfully avoided the financial crisis. However, there is a growing number of insolvencies and bankruptcies, current trends reflect no systemic fear of the credit risk, at least not in the short term. However, it is possible that soon we will see political pressure on the banks to support the fragile economic growth by softer credit terms and conditions.“

[Petr Kříž](#)

+420 251 152 045

The Academy

Accounting for reserves and reduction of the value of assets

Open IFRS seminar

Content of the seminar:

- The seminar summarizes the requirements of IAS 37 for the recognition and valuation of the reserves. It focuses in particular on the restructuring, disposals of property and termination of the employment.
- The second half of the seminar focuses on testing the reduction of the value of tangible and intangible assets and goodwill under IAS 36.
- Theoretical overview contains the most frequent difficulties and suggestions for solutions to the questions in the environment of Czech companies.

When: 17 September 2012 , from 8.30 to 17.00

Venue: PwC, Kateřinská 40, Prague 2

Jazyk: Czech

Cena: CZK 8 900 + VAT

How to register?

For more information and for registration, please fill in the registration form at www.pwc.cz/academy. In case of any questions please write us at: the.academy@cz.pwc.com or contact **Martina Kopsova**, tel: +420 251 151 816.

www.pwc.cz/academy

We invite you

We organise technical seminars, trainings and conferences for our clients and business partners and we would be pleased to welcome you to any of these.

For example:

- The digital age and all related issues... (18 September)
- International export business from the perspective of VAT and customs duties (20 September)
- Specific transactions not only for VAT specialists (11 October)
- Happiness waits for the prepared ones – VAT changes from 2013 (13 November)

More information at: www.pwc.cz/events

or contact **Marie Novotna**, tel.: +420 251 151 839.



Contact

Jiří Moser

Country Managing Partner
PwC CR

Lead Advisory Services Partner
+420 251 152 048

Paul Stewart

Lead Tax & Legal Services Partner
+420 251 152 711

Věra Výtvarová

Lead Assurance Services Partner
+420 251 152 099

Daniel Čekal

Partner PwC Legal
Legal Services
+420 251 152 900

Prague Office

Kateřinská 40, 120 00 Prague 2
+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