

# Tax, Legal & Business News

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Tax, legal, accounting, advisory and assurance newsletter

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## Topic of the month

### Czech trusts: what to watch out for

The Czech trust (trust fund) is a new legal instrument which will enable a certain part of a founder's assets to be detached and placed into a fund administered by an independent administrator from the beginning of 2014.

Why is the trust appealing and what does it entail? In the first place, by placing assets into a trust, the assets will be separated from the founder, which can be either an individual or a company. This separation will enable the assets to be protected to a large extent from negative influences, such as execution, insolvency or division of marital property, which it may otherwise suffer. The assets or their additions are usually gradually released for the benefit of the beneficiaries.

The setup of the trust is completely in the hands of the founder.

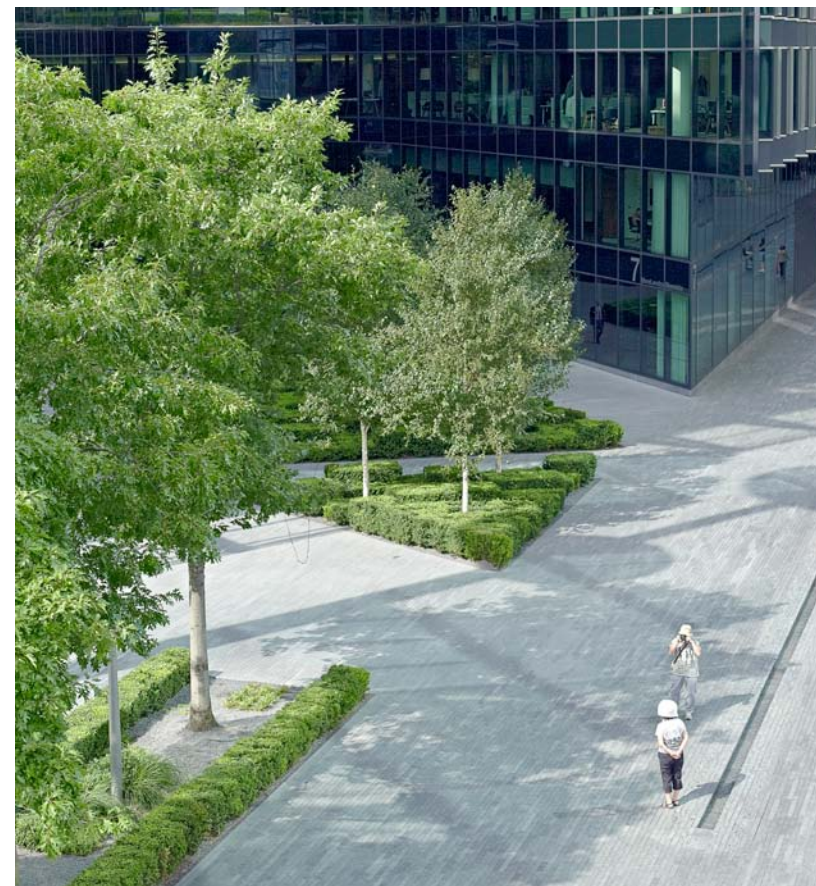
The founder decides what will be placed in the trust, how the assets will be managed, what the conditions for the appointment and dismissal of the administrator will be, what the

restrictions of the administrator will be, what the conditions of payment to the beneficiaries will be, among other things.

In practice, the question of how all of this can be done often comes up. How to set up the fund so that it meets the expectations of the founder? Everything should be regulated in the fund's statute, which is the fundamental document. A good set of conditions in the statute is the basis for the good future functioning of the fund, and, at the same time, it provides the highest possible degree of flexibility to the founder regarding the orientation of his assets to their intended purpose and goal.

Are you thinking about establishing a trust or just want to know more? We would be pleased to advise you on what to avoid, what to watch out for and how to set up the trust for your chosen purpose, both from a legal and tax perspective.

Zenon Folwarczny  
+420 251 152 580



If you are interested in receiving Tax, Legal & Business News, please contact [Jan Keprta](mailto:Jan.Keprta@cz.pwc.com), [jan.keprta@cz.pwc.com](mailto:jan.keprta@cz.pwc.com).

## Tax

### **GFD specified the invoicing rules for VAT purposes**

The General Financial Directorate (GFD) announced new invoicing rules for VAT purposes. Below we comment on the practical application of these rules.

The GFD specifies the interpretation of the term 'audit mark', which does not mean a technological mark, but is described as all related records and circumstances that document a taxable supply and create a link to a particular tax document for this supply. This can be for example a purchase order, confirmation of a purchase order, delivery note, transportation document or confirmation of a payment receipt.

The GFD mentions that no additional information (e.g. account coding, archiving, 'receipt day' stamp) should be added to the tax documents to fulfil the condition of the integrity of the tax documents' content. At the same time, however, it says that if this information, which is beyond the scope of the VAT Act, is added to the tax document and the tax document remains unchanged under the obligatory requirements set up by the VAT Act, such document will be considered as integral.

The GFD announcement also comments on the conversion of a tax document that is received in paper form. Such document will be converted into electronic format by e.g. scanning it, and the paper original will be discarded. According

to the GFD, it is possible to discard the original paper tax document provided the audit mark can be proven even after the conversion into electronic format. Every VAT payer should, however, evaluate the risk exposure related to discarding the original paper tax document mainly for possible legal reasons. The same requirements apply when a supplier sends a tax document by email without an electronic signature, and the recipient prints the document out and subsequently deletes the email.

Some companies use timestamps for 'fixing' a tax document in time in order to guarantee that a particular piece of digital information existed at a given time and in this way ensure the credibility and integrity of the tax document. They should remember that a timestamp has a limited period of validity and, if necessary, re-stamp the tax documents or store them in a trusted document storage facility. If the timestamp expires and no measures are taken to prolong its validity, it is also possible to prove the credibility and integrity of the tax document with the audit mark.

The GFD further confirmed that a local VAT payer is entitled to keep paper tax documents outside the Czech Republic if he provides immediate access to these documents to the tax administrator in the company's seat or at the premises of the tax authorities.

Martin Diviš

+420 251 152 574

## Law

### **What effect will a new Civil Code have on labour law?**

The new Civil Code (NCC) will be effective from January 2014, and it will affect the majority of the legal branches, including labour law. PwC Legal presents a mini-series of upcoming news on this topic.

The NCC integrates private law into a single codex, excluding labour law. The employment relationship, as well as the rights and obligations of the employer and the employee arising out of the employment relationship, will continue to be governed by the labour code. The NCC will then be used only in those cases where a certain area is not regulated by the labour law. Actions of the employer can be included in these cases.

A legal entity will have a new obligation to stipulate which of the members of the statutory body will have the competence to take legal action towards the employees. Of course, this assumes that the statutory body has many members. If these members are not appointed, the chair of the statutory body will have this competence.

The question is, what is the purpose of this new provision and what impact will it have on employers. It is clear that the regulation aims to facilitate communication and negotiations between employees and employers. The employees will thus clearly know which member of the statutory body is responsible for negotiating with them. The reality, however, may be

different. We can imagine that the employees will continue to take action with their direct superiors or with HR professionals. Experience alone will demonstrate the usefulness of the above-mentioned provisions.

Zdeněk Tomíček

+420 251 152 904

Aleš Terš

+420 251 152 573

## Accounting

### **What are the European stock market regulators checking in the financial statements?**

How to properly assess property, in particular non-cash and non-material property, is one of the most important accounting issues in the current economic situation.

In January 2013, the European Securities and Market Authority (ESMA) issued a document analysing the quality of published information about the testing for a decrease in the value of non-financial assets (mainly goodwill and brands) in financial statements prepared according to IFRS of companies traded on European stock exchanges. This document is available on [www.esma.europa.eu](http://www.esma.europa.eu) under the reference number 2013/2. You can easily assess whether a company publishes all the information required by IAS 36 or

## Accounting

whether it potentially faces recourse by the regulator on the basis of the conclusions and recommendations stated by ESMA in the document.

ESMA found many failures. Some of the companies are too optimistic, and the values of discerned assets are not feasible in the current circumstances according to the regulators and members of the International Accounting Standards Board.

Stock market regulators are very active in performing the checks and related fines. This is also attested by ESMA document number 2012/656, which summarises nine cases where regulators have fined companies in connection with weaknesses in their financial statements prepared according to IFRS. These findings concerned in particular the testing for a decrease in value but also the capitalisation of intangible assets, control over another company, operating segments reporting and revenue recognition.

So let's learn from the mistakes of others, peek into the regulators' kitchen and thus avoid any unpleasant surprises.

Martina Chrámeká

+420 251 152 238



## Accounting

### **New transparency requirements for financial companies under the Capital Requirements Directive (CRD 4) are coming up**

The new wording of the Capital Requirements Directive, which was agreed at a meeting of the European Parliament on 16 April 2013, compels some financial and investment companies to publish certain information separately for each country in which it operates. This measure will affect companies that receive deposits from the public and provide loans as well as investment companies, with the exception of those that are local and those which cannot hold assets of their customers. These organisations will thus have to publish the following information in all the countries where they have a place of business each year:

- name, economic activity and place of business
- turnover
- number of employees
- economic result before tax
- paid tax
- received subsidies

If the text of the directive is published in the Official Journal of the EU by 30 June 2013, the obligation to disclose the required information will arise on 30 June 2014. Subsequently, the European Commission will evaluate the potential negative effects of publication of the received information, and it will issue

a report proposing a further course of action by 31 December 2014. If the European Commission does not propose any other changes, the information will be published on 1 January 2015. The whole process will, of course, slow down if the new legislation is not published in the Official Journal by 30 June 2013.

Zenon Folwarczny  
+420 251 152 580

## Employees

### **Do you have a monthly income above CZK 103,536? If so, you have to pay a solidarity tax and submit a tax return**

Employees that have a monthly income above CZK 103,536 are now liable to pay a solidarity tax in the amount of 7% from the beginning of 2013. They will also have to submit a tax return for 2013 and will no longer be able to get an annual tax settlement from the employer. This obligation will also apply to employees who have to pay the solidarity tax for just one month, for example due to a bonus payment.

If you are interested in how you can help your employees, how other companies solve this problem, how this change will be reflected in the tasks of the human resources department or what your company is required to do according to the law,

## Employees

please address your questions to your usual contact person at PwC or the author of the article.

Tomáš Hunal  
+420 251 152 516

### **2nd generation Schengen information system has been launched**

The 2<sup>nd</sup> generation Schengen information system (SIS II) was launched on 9 April 2013. It replaces the existing system SIS I. The new version of this security database system contains biometric data of individuals in the form of photographs and fingerprints, and it will also allow the comparison of DNA samples. More sophisticated control mechanisms will mean more thorough border control.

The primary goal of SIS is to ensure the protection of the external borders of the Schengen area. The upgraded system should facilitate the search for wanted, missing or undesirable persons and also stolen vehicles, weapons or documents. Currently, the system stores information about 1.2 million people and 45.7 million items, such as lost personal documents or cars. Thanks to the introduction of SIS II, the database capacity can be extended to up to 70 million entries.

Jana Zelová  
+420 251 152 567

## Study

### **Life returns to European IPO markets**

Good news has come from the European Initial Public Offering (IPO) markets. An increase in IPOs during March can be considered as the first sign of recovery. Research by PwC's IPO Watch Europe showed that the value of European IPOs increased in the first quarter year on year by 40%. The five largest European offerings earned approximately EUR 2.7 billion during this period.

The growth was mainly driven by the primary IPO on the Deutsche Börse and the stock exchanges in London and Italy. London saw the first private equity-backed IPO since October 2010. The IPOs of companies owned by private equity represent 28% of total European IPO revenues in the first quarter, actually 47% in London. This may help pave the way for other private equity-backed IPOs.

Private equity funds have considered IPOs as more of a means of escape from their investments in recent years. But they were discouraged by the uncertain development of the markets and the negative mood of investors. Despite the good performance of the last primary IPOs, we are still a long way from restoring the confidence of other players in the private equity sector.

The fact that the offer prices stayed within their published ranges is a key barometer of investors' strong demand. The performance of the new offerings also developed positively in subsequent trading – they either grew or at least remained at the offer price.



If the current mood lasts, the European markets can look forward to a good year with a large number of IPOs taking hold on the market. It is expected that the preparation of primary offerings will come from a wide range of sectors throughout the year, particularly banking, insurance, real estate and entertainment.

Marek Richter  
+420 542 520 170



## The Academy

### The Academy – open seminars

3 June 2013, Prague

#### Certified Information System Auditor (CISA)

Certified Information Systems Auditor (CISA) is globally recognised as the mark of excellence for information systems audit professionals. CISA combines the achievement of passing a comprehensive exam with recognition of work and educational experience, providing you with credibility in the marketplace. Whether or not you intend to immediately sit for the CISA exam, this one-day course is a powerful way to equip yourself with the knowledge of the core competencies that define a successful IS auditor. An original study scheme enables our students to have significantly higher exam pass rates than the global average.

4 June 2013, Prague

#### Accounting for leasing according to CZ GAAP and IFRS, new exposure draft of IAS 1

Seminar is focusing on accounting for operating and finance lease according to IAS 17. In the first part we will go through basic principles and related accounting entries of finance and operating lease both for lessee and lessor. You also get knowledge of adjustments needed for transfer of CZ GAAP accounting treatment to IFRS one. Second part of seminar focuses on more complex areas such as sale and lease back and identification of contracts which are in substance lease. Main part is related to summary of exposure draft of IAS 17, which brings significant changes to accounting of leasing compared to current practice.

12-14 June 2013, Prague

#### Certified Internal Auditor (CIA) - preparatory course for exam according to new syllabus!

##### Part I: The Internal Audit activity's role in governance, risk and control

The Certified Internal Auditor (CIA®) is the only globally accepted certification for internal auditors. Candidates leave the programme enriched with educational experience, information, and business tools that can be applied immediately in any organisation or business environment.

#### How to reserve a place?

For registration, please fill in the registration form at [www.pwc.cz/academy](http://www.pwc.cz/academy). Should you have any questions, please write an email to [the.academy@cz.pwc.com](mailto:the.academy@cz.pwc.com) or contact **Darje Šašková**, tel: +420 251 152 446.

[www.pwc.cz/academy](http://www.pwc.cz/academy)

## We invite you

- 30. 5. 2013 in Prague, Economia conference, PwC is the main partner  
**HR Meeting – Trends in HR: Engagement – Performance – Flexibility**  
Registration: [www.konference.ihned.cz](http://www.konference.ihned.cz) (in Czech language)

### Czech innovation nights: Get inspired by successful innovators

(in Czech language)

We would like to invite you to the series of informal networking meetings **Večery ČIN** organised by Česká inovace in support of innovative culture and know-how. PwC is a partner of Česká inovace and these meetings. On Tuesday 28 May, you can meet the winners and finalists of the Česká inovace contest – Kofola ČeskoSlovensko, Madeta and AGC Flat Glass Czech – and discuss How to support innovative culture in companies. The dates and topics can be found on the PwC website [www.pwc.cz/inovace](http://www.pwc.cz/inovace).



## Contact

### Jiří Moser

Country Managing Partner  
PwC ČR  
+420 251 152 048

### Peter Chrenko

Lead Tax & Legal Services Partner  
+420 251 152 600

### Věra Výtvarová

Lead Assurance Services Partner  
+420 251 152 099

### Miroslav Bratrych

PwC Advisory Partner  
+420 251 152 084

### Daniel Čekal

PwC Legal Partner  
Legal Services  
+420 251 152 900

### Prague Office

Hvězdova 2c, 140 00 Prague 4  
+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

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