

# Tax, Legal & Business News

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## Topic of the month

### Employee cards

The Act on the Residence of Foreigners no. 326/1999 went through significant changes at the end of June of this year. Directive 2011/98/EU of the European Parliament and the Council, on a single procedure for a single residence and work permit for third country nationals, was implemented into the act. The main goal of this directive is above all to resolve the critical shortage of the labour force in certain professions, which every EU country is facing. Another purpose of the directive is to reduce the administrative burden connected with the immigration process for both employees and employers. The Ministry of Interior and the Ministry of Labour and Social Affairs have been preparing for this change for nearly a year. Since 24 June 2014, the authorities have been enforcing the new procedure in the legalisation of the stay of foreigners coming from countries outside the EU, the result of which is a new type of temporary residence permit – the employee card. If the applicant fulfils the statutory requirements, he will receive the card with a validity period of two years.

The employee card is a dual residence permit, uniting the residence and work

permit in one. It replaces the traditional process of requesting a work permit and a visa for a stay of over 90 days for the purpose of employment, which is hereby being ended.

We point out that the assignees who are sent out to perform work in the Czech territory by their foreign employers seated outside the EU are still obliged to apply for a work permit. Such assignee also applies for the employee card together with the request for the work permit. This kind of employee card is then marked as non-dual.

An applicant can submit a request for the card at any Czech embassy, or right at the Ministry of Interior in the territory of the Czech Republic if the request fulfils the statutory conditions for submission on the Czech territory. The Ministry of Interior usually makes a decision on the consent to issue the employee card within 60 days. In our experience so far, the Czech immigration offices are sticking to the 60-day period, but in exceptional cases the Ministry of Interior can take as much as 90 days to deliver an opinion. The requirements presented for the request for the employee card are similar to those for the request for the over-90-day residency visa for the purpose of employment. In addition, the applicant

should prepare a work contract or future contracts together with the duly certified documents on the highest achieved education.

We recommend planning the transfer of potential assignees from countries outside the EU to the Czech Republic well in advance, to avoid pointless delays in the work start date of the given foreigners (the applicants). The authorities involved in the process of approving employee card applications are still in the change implementation phase, and this situation is also new for them. We would be happy to advise you or help resolve specific cases, or we can answer your practical questions.



Jana Zelová  
+420 251 152 567



Petra Kleinová  
+420 251 152 612

## Tax

### STO Questionnaires: Tax administration has made transfer pricing question a priority

The Specialised Tax Office recently asked companies registered there to fill out a questionnaire on transactions between related parties. A lot of our clients have been asking us whether they really have to provide this information and where the obligation comes from. If the STO wants to, it can obtain this information from data it already has, or it can get it from other sources. Instead, the STO is making more work for taxpayers, who have to laboriously extract this information from accounting evidence or source documents.

Many of you have probably asked why the STO is investigating these facts and how honestly and thoroughly the questionnaire should be completed.

The questionnaire is one of the tools with which the STO wants to test taxpayers' willingness to cooperate with the tax administration while simultaneously obtaining additional information for carrying out a risk analysis of subjects in the area of transfer pricing. Based on this analysis, the STO will be able to make better use of its limited capacity to control

If you are interested in receiving Tax, Legal & Business News, please contact [Michal Horáček](mailto:michal.horacek@cz.pwc.com), [michal.horacek@cz.pwc.com](mailto:michal.horacek@cz.pwc.com).

## Tax

transfer prices, which can represent a significant risk considering the information obtained.

Failure to complete the questionnaire will not bring any sanctions. Nevertheless, a note will probably appear in the subject's tax record saying that the company isn't cooperating, so it will get negative marks in the total rating.

Giving incorrect or misleading information will most likely not be discovered by sending in the questionnaire. But if these facts come to light in a subsequent tax audit, the company can again lose notional points. This is why the current voluntary "exercise" represents both an opportunity and a threat for big firms. The STO is sending a clear signal that the question of transfer pricing is becoming a priority for the tax administration and that we can expect an increased number of tax audits in this area. Your demonstrated effort to cooperate and provide the correct data may very well expedite not only a possible tax audit, but also, if you have everything under control, its rapid progress without additional assessments. If it's hard to extract the requested information from the accounting system, there's still enough time to set up an effective record-keeping or reporting system that generates the information. As announced, this questionnaire is just the beginning. They're also preparing a supplement to the tax return on transactions between related parties to be submitted annually.



**Peter Chrenko**  
+420 251 152 600

## Draft amendment to ITA guidance

A new version of the guidance gives more specifics on some provisions of the Income Taxes Act, like the procedure for paying dividend advances, conditions of providing company cars to employees, (non)taxation of gifts, conditions of rights to various income tax credits for individuals, etc. The guidance should correspond to the current version of the ITA and to the new concepts of the civil and commercial laws.

The Chamber of Tax Advisers finished its comments to the draft amendment of guidance no. D-6 and called for the deferment of amending the guidance until the final version of the amendments to the ITA that are currently under debate in the Czech Parliament is approved.

## When can you take a tax deduction for accounting depreciations?

A company doing business in a regulated industry can deduct the (otherwise non-deductible) part of the accounting depreciations exceeding the tax depreciations from the tax base, because a direct connection exists here between accounting depreciations and revenue. The Supreme Administrative Court made this ruling in a case involving a company from RWE group. The level of prices charged to the customers of a company is in fact determined by a regulator using a formula that specifically covers the accounting depreciations, among other entries. Likewise, it's interesting that in the past the accounting residual values of an asset, and thus the accounting depreciations as

well, were increased by a revaluation during the restructuring of a company.

The above decision concern provision § 24 (2) zc) of the Income Taxes Act and is in favour of the taxpayer. In the past, courts made the opposite decisions in these matters. But the issue was with taxpayers in non-regulated business. A prepared amendment to the Income Taxes Act would limit the application of the above section of the law to simple revaluing.



**Zenon Polwarczny**  
+420 251 152 580



## Severance payments should be subject to new deductions for social security and health insurance

Severance payments provided in cases given by the labour law—such as if the employer or its part is liquidated, or if the employee is made redundant—should be subject to new deductions for social security and health insurance from 1 January 2015 according to the approved legislation. As a consequence, this step should also influence the higher payment of income tax, because the tax will be calculated from the usual "supergross wage" in this case as well. This means additional costs for employers and lower net wages for employees.

However, there is now a draft in the Chamber of Deputies which should again exclude severance payments from social security and health insurance deductions and maintain the current situation.



**Tomáš Hunal**  
+420 251 152 516

## Mini One-Stop-Shop: one administrative point for VAT payments coming soon

Changes in VAT which take effect 1 January 2015 influence providers

of electronic and telecommunications services and television and radio broadcasting services supplied to end customers (B2C). These changes will have a big impact on the set-up of internal processes for the providers of these services as well as the taxation because it will bring a change in the place of supply, and these services will be newly taxed in individual member states according to the place of residence of the end customer. To prevent an increase in administration, the exceptional regime of a single administrative point will be implemented for the above-mentioned services beginning 1 January 2015. Registering for this regime prevents the obligation to register and account for VAT in individual member states, and VAT designated for particular member states will be reported and collected in the country where the company is registered for the exceptional regime of the mini one-stop-shop (typically in the country where the company is seated).

The Czech president signed the draft of this amendment to the VAT law on 3 September 2014. The parts of the amendment regarding registration will become effective as early as 1 October 2014.



**Martin Diviš**  
+420 251 152 574



## Accounting

### Amendment to the Act on Accounting implements new EU directive into Czech law

The Ministry of Finance submitted an amendment to the Act on Accounting, which should transpose the new EU accounting directive into Czech law from 1 January 2016, to the external comments procedure. One of its goals is to simplify the requirements placed on small businesses and microenterprises. The draft now defines the border for microenterprises, small and medium-sized enterprises and groups and narrows the definition of public interest entities to listed companies, banks and insurance companies including health insurers and pension management companies.

The draft also establishes the obligation of large accounting units in the mining industry and logging of primary forests to report on payments to governments on a country-by-country basis. The amendment further specifies the filing of accounting documents in the collection of deeds, reintroduces single-entry bookkeeping for non-profit organisations and individuals and rescinds the obligation to capitalise establishment costs, thereby further aligning with the definition of assets known from the International accounting standards.



**Petr Kříž**  
+420 251 152 045

## Employees

### American citizens living in the Czech Republic have further tax obligations in the USA

Every American citizen, resident or green card holder is obliged to submit a federal tax return declaring global income, including other compulsory forms and reports on financial assets held in foreign banks. American citizens living abroad aren't free from these obligations; indeed, not fulfilling them could bring penalties or even criminal prosecution. If the person has delayed fulfilling his American tax obligations, he should make arrangements to rectify this as soon as possible. One example of what the person could use to do this is the "Offshore Voluntary Disclosure Programme", which would reduce the potential risk of sanctions and penalties.

The first wave of international exchanges of information on foreign bank accounts of American taxpayers should be realised by 30 September 2015.

### The Czech Republic has concluded treaties on social security with India and Russia

The treaties simplify the obligations in the area of social insurance for persons migrating between the given countries. The treaties ensure assignees the possibility of remaining in the home social security system for a certain period stated in the treaty (i.e. two years in the case of Russia, and five years for India).

But it's very important to consider which persons are covered by the respective treaty and which benefits the treaty provides for.

The treaty with Russia is one of the few that applies only to citizens of one of the contractual parties. However, it has a more comprehensive material scope, covering benefits for sickness and maternity, old-age pensions, allowances for children, etc. By contrast, the treaty with India only provides for benefits in pension insurance. We point out that neither treaty covers the area of health insurance, which the local legislation of the affected states will also be in charge of going forward.

The treaties also strengthen the protection of the pension rights of migrants working in the contractual states who complete insurance periods there. They will allow the insurance periods completed in the CR and India, or respectively Russia, to be taken into account for pension rights. At the same time, insurance periods completed before the treaties took effect are also taken into account (in the case of the treaty with Russia, the permanent residence of the citizen can play a part). The treaty on social security between the CR and India took effect 1 September 2014; the one between the CR and Russia will take effect 1 November 2014.



**Tomáš Hunal**  
+420 251 152 516



## Law

### Preparing the amendment to the NCC – Will it really solve the most urgent problems?

The Ministry of Justice is working on a "little" amendment to the New Civil Code. Its goal is to eliminate interpretation doubts and resolve the most pressing issues from practice. The working version made public by the Ministry nevertheless indicates that we might even live to see some conceptual changes. Due to the increasing scope of the draft amendment, the Ministry postponed the deadline of presenting it to the Government until the end of this year.

Among other things, the draft amendment provides that in legal actions for which a power of attorney is granted that should be in the form of a public act, it will be enough to have a power of attorney with an officially certified signature. In its current shape, this requirement creates considerable problems especially for foreigners who are the sole partners of companies and who often travel to the Czech Republic just to have the power of attorney drawn up by a Czech notary in the notarial record. But the relaxation of

these requirements only relates to (i) cases involving business corporations, (ii) when an entrepreneur is the principal in business activities, or (iii) when an attorney is the empowered agent. For entrepreneurs, it should amount to a lightening of the formal requirements for powers of attorney.

For other powers of attorney, the form of a public act will still be required in future, as it is for example when altering a matrimonial property regime or in agreements on consent to an enforcement.

The NCC has attempted to define the term due managerial care, but considering the complicated subject matter of this term and the abundant court deliberations in practice in this area suggests that this definition will be cut out. Other changes relate to for example processing non-property damage, establishing and moving branches of legal entities and modifying an entrepreneur's place of business.



**Barbora Masařová**  
+420 251 152 912

### David Borkovec is new lead partner for PwC CR Tax and Legal Services

David Borkovec became the lead partner of the Tax and Legal Services department of PwC Czech Republic. He is replacing Peter Chrenko, who will now be able to fully dedicate himself to tax risk management, including enhanced cooperation between the taxpayer and tax administration, tax disputes resolution, and set-up of effective Tax Function of his clients.

David Borkovec joined PwC in 1999, and he has been a partner in TLS since 2010. He focuses on providing services in the area of corporate income taxes, especially for strictly Czech companies. His specialties include transfer pricing, corporate restructurings and tax aspects of international transactions.



## The Academy

### How to write a report about sustainable development and social responsibility according to the GRI

We're inviting you to a unique training that will teach you how to create a report about sustainable development and social responsibility according to the Global Reporting Initiative methodology.

The training is intended for everyone who takes part in activities focused on corporate social responsibility and sustainable development in any phase, from creating a strategy to realising it, setting up and measuring indicators, and finally reporting – creating a report that appeals to interested groups. Everyone from CSR coordinators to marketing and communication specialists will find useful information here.

You can find more information about our CSR activities at [www.pwc.cz/odpovednost](http://www.pwc.cz/odpovednost)

### Get ready for the Diploma in IFRS December exam

During eight intensive days of training, you will gain extensive and comprehensive knowledge of the main IFRS standards and principles, IFRS reporting skills, including the consolidation of financial statements, and practical application of IFRS. This preparatory programme consists of three modules and a mock exam. This preparation will lead up to an exam which will be held on 9 December 2014.

**Date:** Part I: 6-7 October 2014, Part II: 22-24 October 2014,  
Part III: 18-20 November 2014, Mock: 1 December 2014

**Venue:** PwC, Hvězdova 1734/2c, Prague 4, **Price:** CZK 29,000 + VAT, **Language:** EN

### Deferred tax according to CZ GAAP and IFRS - accounting and tax perspective

This popular seminar brings a combination of accounting and tax issues. In the first part, we take you through pitfalls in tax (tax deductibility, temporary and permanent differences). The second part gives you knowledge of the principles and calculation of deferred tax. The seminar also gives you knowledge of effective tax rate reconciliation as a control mechanism for calculating deferred tax and summarises the difference in calculating deferred tax according to CZ GAAP and IFRS.

**Date:** 10 October 2014, **Venue:** PwC, Hvězdova 1734/2c, Prague 4

**Price:** CZK 6,900 + VAT, **Language:** Czech.

### How to reserve a place?

For more information and registration, please visit our webpage [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 **Daria Zmatlíková**, tel.: +420 251 152 446.

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

## We invite you

### ABSL conference 2014



**16 October 2014**, 9:00 a.m - 6:00 p.m.

Prague, Hotel Diplomat, Evropská 15

The second annual conference uniting shared service providers in the Czech Republic will take place 16 October 2014 at the Hotel Diplomat, where you can meet up with over 100 representatives of the biggest service providers in the CR.

PwC Academy is a member of the Association of Business Service Leaders in the Czech Republic, so we're giving you the special offer of a two-for-one admission!

Please register at [absl@absl.cz](mailto:absl@absl.cz)

More information can be found at [www.absl.cz](http://www.absl.cz)

### Working breakfast: IFRS 15 is real

**4 October 2014**, 9:00 a.m - 12.00 hod.

PwC, City Green Court, Hvězdova 2c, Prague 4

Event intended for telecommunications companies

Registration: [www.pwc.cz/telco](http://www.pwc.cz/telco)

You can find details about these and other events at [www.pwc.cz/events](http://www.pwc.cz/events)

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## 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

### Michael Mullen

PwC Legal Partner  
+420 251 152 700

### 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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