Basic group cash pooling issues from the company’s and state’s perspective

Cash pooling operations allow advantageous interest on funds, ensuring corporate liquidity, and group lending. In addition to practical issues concerning relations within the group, duties and liabilities of statutory bodies, such international transactions also involve the State’s interest in monitoring such transactions.

Liability of statutory bodies

Cash pooling transactions are subject to the duty of management to act with due managerial care and protect of company against potential losses. A statutory body, for example, may request a General meeting to grant an order concerning cash pooling. This process, however, may bring harm to the company especially in the case of cash pooling. Management of the participating company should always consider whether any potential harm of the cash pooling process would be compensated or settled within the group to the advantage of the participating company such as due to a better negotiating position with business partners, or guarantees provided by companies within the group.

The management of company must refuse an instruction in conflict with law or an instruction where the company would go bankrupt, despite the instruction of General meeting.

Relations resulting from cash pooling must be included in the report on relations which the statutory body of a participating company must prepare within 3 months after the end of a financial year. The report on relations contains, among other things, the structure of the relations within the group and the advantages or disadvantages arising from them and is attached to the annual report. The statutory body must state in the report how any harm was or will be compensated.

Relations to public authorities

Cross-border transactions require notification to the Czech National Bank or the Tax Office.

If the volume of loans of a participating company reaches the level of the agreed terminal of CZK or in relation to foreign countries in any calendar year, the Czech National Bank is entitled to require from the company to regularly compile and submit statements on cash pooling operations. In these cases of group lending when cash pooling, the company must ensure that market credit conditions are set and tax-deductible expenses respect the thin capitalization rules and also take into consideration the limitation of interest on loans (or relating fees, etc.) within cash pooling as tax-deductible. In relation to a group loan, for standard companies non-tax-deductible financial expenses (costs) are those the amount by which such loan exceeds the four times the amount of equity.

Full article can be read in Czech here: http://www.pravniprostor.cz/clanky/obchodni-pravo/zakladni-otazky-cash-poolingu-a-koncernu-z-pohledu-obchodni-spolocnosti-i-statut

Answers to parental leave, children raising and marriage issues

Every legal advice is precious. We bring you 16 of them.

How long is the employer obliged to keep my work place, when I am on parental leave?

A mother is entitled to parental maternity leave until the child is 4 years old. The employer is obliged to assign you to your original position only after maternity leave termination. After the end of maternity leave, the employer need not keep the original position, but must place you in the position as described in your employment contract. This means he must place you according to the scope of agreed type of work, place of work and working hours. Therefore, you can be in a similar position after your parental leave or even at different workplace than your original one if your place of work is not specified precisely.

Full article in Czech is here: http://www.motec.cz/clanky/16-odhodi-v-rodielce-vzhore-det-manzelstvi/

Bořivoj Líbal
Managing Partner
The Avoidance of Double Taxation Agreement between the Czech Republic and Liechtenstein

We would like to highlight The Avoidance of Double Taxation Agreement between the Czech Republic and Liechtenstein. Liechtenstein can be considered as an interesting holding destination from the Czech Republic perspective. The agreement shall come into effect at the beginning of the year 2016. Zero withholding tax on interest and dividends is established for payments from the Czech Republic (paid among others to a Liechtenstein foundation), if the Liechtenstein legal entity holds at least 10% of capital of Czech company for at least 1 year. In other cases of payment of dividends and also license fees from the Czech Republic the rate is reduced to 10%. The tax rate on corporate income in Liechtenstein is 12.5%, but local legislation allows, for example, reading "hypothetical" interest on equity or received interest-free loans amounting to 3-4%, resulting in an effective tax at 8-9%. Liechtenstein applies virtually no withholding tax on interest and dividends paid abroad.

Zenon Folwarczny
Tax Director
zenon.folwarczny@cz.pwc.cz

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Chinese Prague Summer School

PricewaterhouseCoopers Prague office, which was also a partner, provided premises for this extraordinary event. The program, which is designed for students from China, was a combination of theory and practice, in which almost 60 students had the opportunity to participate via simulated operation of enterprise specializing in law and business. One of the lecturers was Michael Mullen, who led a lecture on Setting up a Business. At the beginning of this event, which creates academic relations between Central and East Europe and China, there was an opening reception attended by, among others, Graciela Chichilinsky of Columbia University, the winner of the Nobel Prize for economics.

Havlickobrodsky half marathon

We have become a partner of the Havlickobrodsky half marathon, in which our colleagues also participated last year. This year, not only strong individuals will run, but also four-person relays will participate.

Registration ends on September 7, 2015, so you can still join!

http://www.havlickobrodskypulmaraton.cz

Presentation our Prague team

While the Prague team has been photographed in classy dress Mike Mullen represented our office elsewhere ...