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Amendment to the Auditors Act

On 1 July 2016, the Lower House approved in the third reading an amendment to Act No. 93/2009 Coll., the Auditors Act. The amendment is to harmonize Czech law with Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 on statutory audits of annual accounts and consolidated accounts and Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities. The amendment primarily applies to audits of public-interest entities, such as listed companies, banks, insurance companies, etc., and focuses on the auditor's independence and autonomy, including, without limitation, restriction of other services rendered by the auditor to the audited party. An auditor who audits a public-interest entity may provide non-audit services to the entity unless the services would have a direct impact on the audited accounts (financial statements). The auditor is required to document and explain its estimated influence in a supplementary report, which is to be submitted to the audit committee. Moreover, the amendment enhances the powers of the audit committee and the supervisory board in terms of choosing the auditor and extends the scope of the audit report. EU Member States are required to implement Directive 2014/56/EU by 17 June 2016. Nevertheless, given legislation delays, the amendment will take effect later, on the first day of the month after it is disclosed and published.

Amendment to the VAT Directive Regarding Voucher Rules

On 1 July 2016, Council Directive (EU) 2016/1065 of 27 June 2016 amending Directive 2006/112/EC as regards the treatment of vouchers, was published in the EU Official Journal. There are no standard rules regarding vouchers for purchasing goods or services and the treatment thereof in terms of VAT in the VAT Directive or in the Czech VAT Act, and it is difficult to determine the moment at which the tax is to be declared.

Pursuant to the Directive, 'voucher' means an instrument where there is an obligation to accept it as consideration or partial consideration for a supply of goods or services and where the goods or services to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of using such instrument.

The moment at which the applicable VAT is to be paid depends on whether the voucher has been issued for goods or services which are precisely known at the moment the voucher is issued (single-purpose vouchers) or not (multiple-purpose vouchers).

The transfer of a single-purpose voucher is deemed to constitute a delivery of goods or services to which the voucher applies. The actual release/acceptance of goods or services is not important in terms of VAT. However, the requirement is that the voucher must be issued by a party liable to tax which acts in its own name.

As concerns multi-purpose vouchers, VAT should be paid at the moment the voucher is claimed since what the particular goods or services the voucher is exchanged for is known at that moment.

EU Member States are required to implement the new Directive by 31 December 2018 and the new rules are to apply as of 1 January 2019.

Draft Act on Central Register of Accounts

On 1 July 2016, the Lower House approved in the third reading a draft Act on Central Register of Accounts. Pursuant to the draft, a central register of accounts maintained by banks operating in the Czech Republic and savings companies and cooperatives for their client will be established. The central register of accounts is to be administered by the Czech National Bank. The register will contain a list of existing accounts of individuals and legal entities and should be limited to information about whether an account exists or not and should not contain any other particular information on the accounts or their holders. Access should be granted to tax and customs authorities, state attorneys, judges, intelligence agencies and the Finance Ministry's Financial and Analytical Department, if there is a serious



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suspicion of criminal activity. The legislators hope that the central register will help combat major tax evasion and crime in general. The register is expected to be launched in the first half of 2018.

Draft Bill on Proving Legitimate Origin of Assets

On 1 July 2016, the Czech Parliament's Lower House adopted a new draft bill which amends the Income Taxes Act and the Penal Code. Pursuant to the draft, tax authorities will have the right to request a taxpayer (whether it is an individual or a legal entity) to prove the legitimate origin of his/her/its assets in cases where the tax authorities have a reason to believe that an increase in assets, consumption or any other tax's expenditures fails to correspond with what the taxpayer has declared in his/her/its tax returns and where authorities do not know any circumstances which would explain such difference. The tax authority may request the taxpayer to prove the origin of the assets if the tax authority carries out a preliminary review and concludes that the difference between the taxpayer's increased assets and income is greater than CZK 7 million. The amendment to the Penal Code changes the sentence term for a refusal to make a declaration of assets or for declaring untrue or biased information. In such case, the taxpayer will face a sentence of up to three years of imprisonment, cash penalty or prohibition to operate.

Pensions Exempt from Income Tax Again

The Constitutional Court met the proposal from seventeen senators to abolish the provisions of Section 4(3) of the Income Taxes Act which restricted the exemption of pensions and old age pensions where the aggregate income from employment, sole proprietorship and lease exceeds the amount of CZK 840,000 per taxpayer and taxation period. Pension and old age pension income is currently tax exempt in aggregate up to the amount of 36 times the minimum wage. Although issues related to an optimum tax burden are predominantly of a political nature, that does not mean that tax issues are totally excluded from the review and remedial powers of the

Constitutional Court. A substantial argument in this matter is that the principle of horizontal justice has been broken – taxpayers who have relatively the same payment ability should pay the same tax regardless of the origin of the income. The Constitutional Court believes Section 4(3) is inapplicable and ineffective throughout the entire 2016 taxation period in order to avoid any inequality which could arise for a portion of the 2016 taxation period.

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