

**AUGUST/SEPTEMBER
2015 NO. 4**

ADOPTED LAWS AND AMENDMENTS

Amendment to the Intelligence Service Act

Amendment to the Accounting Act

Amendment to the Income Tax and Reserves Acts

2016 Decree by the Ministry of Labour and Social Affairs

LEGISLATIVE ACTIVITIES

Postponed Effect of the Act on Electronic Recording of Sales Proceeds for Accommodation and Catering Services

Amendment to the Income Tax Act

CASE LAW

Tax Impact of Absolute Invalidity of Obligations



Prague Main Office

Jungmannova 24, 110 00 Prague, Czech Republic
tel.: +420 / 224 103 316, facsimile: +420 / 224 103 234
e-mail: ksbpraha@ksb.cz

Karlovy Vary Office

Závodní 391/96C, 360 06 Karlovy Vary, Czech Republic
tel.: +420 / 353 225 996, facsimile: +420 / 353 227 781
e-mail: ksbkv@ksb.cz

Ostrava Office

Českosobotská 7, 702 00 Ostrava, Czech Republic
tel.: +420 / 553 030 511, fax: +420 / 553 030 512
e-mail: ksbostrava@ksb.cz

ADOPTED LAWS AND AMENDMENTS

Amendment to the Intelligence Service Act

On 27 August 2015 an amendment to the Intelligence Service Act which substantially expands the powers of intelligence agencies, especially towards banks, took effect.

The amendment should help to improve cash flow monitoring so as to more effectively combat white-collar crime and tax evasion. As follows from the amendment, intelligence agencies are now authorized to review information culled by the General Financial Directorate during tax administration without breaching its confidentiality duty.

Amendment to the Accounting Act

The amendment (published under No. 221/2015 Coll.) transposes to the Czech legal system as of 1 January 2016 Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on annual financial statements, consolidated financial statements and related reports of certain types of undertakings. The Directive and the amendment focus on reducing the administrative burden on small and medium sized businesses.

The amendment introduces new categories of accounting units and consolidation groups and sets forth which accounting units are so-called public-interest entities, such as banks, savings and loan cooperatives, insurance and re-insurance companies, pension companies, and health insurance companies.

Selected accounting units such as associations, trade unions, churches, etc. whose income and property does not exceed CZK 3 million can now use single-entry accounting to keep their accounts. The amendment also defines single-entry accounting in greater detail.

Amendment to the Income Tax and Reserves Acts

As follows from amendment No. 221/2015 Coll., acquisition costs are no longer included in intangible assets in the Income Tax Act and are to be deemed standard-period costs as of 1 January 2016.

Acquisition costs recorded in a taxpayer's assets before 31 December 2015 will continue to be deemed intangible assets and will be subject to the pre-amendment rules.

Moreover, the Income Tax Act will include rules for adjusting profit/loss by reserves for handling electrical waste from solar panels.

The Income Tax Base Reserves Act has also been amended to adjust the reserves for handling electrical waste from solar panels marketed as of 1 January 2013.

2016 Decree by the Ministry of Labour and Social Affairs

As of 1 January 2015, the Ministry of Labour and Social Affairs has set forth the 2014 general assessment base, the conversion coefficient and other information for calculating old-age pension.

The 2014 general assessment base amounts to CZK 26,357, whilst the conversion coefficient for the adjustment was determined at 1.0246. These two figures are based on 2014 and 2015 statistics and are crucial for calculating old-age pension to be granted in 2016. The product of the figures gives the average wage for 2016.

The average wage is a crucial figure for calculating the maximum assessment base for social security insurance, as well as the minimum advance insurance payments for sole proprietors, etc. The 2015 average wage (CZK 26,611) has been increased to CZK 27,006 in 2016, and the maximum social security insurance assessment base has been increased from CZK 1,277,328 (applicable in 2015) to CZK 1,296,288 for 2016.

LEGISLATIVE ACTIVITIES

Postponed Effect of the Act on Electronic Recording of Sales Proceeds for Accommodation and Catering Services

The effective date for the Electronic Sales Proceeds Recording Act is likely to be postponed by four months. The Lower House is debating the proposal submitted by the Ministry of Finance to postpone the date on which the bill is to take effect from the original three months to seven.

This should reflect the significance and scope of changes to be brought by the

adopted bill and provides those affected with enough time to get familiar with and adjust to it beforehand. By postponing the adoption-to-effect period, the Ministry is responding to criticism over certain technicalities and major political pressure, but it is also seeking to make the process of implementing the Act as smooth as possible.

If the Electronic Sales Proceeds Recording Act is adopted in December 2015, the most likely effective date of the Act will be in the second half of 2016.

Draft Amendment to the Income Taxes Act

The government submitted a draft amendment to the Income Taxes Act to the Lower House for debate. The amendment increases the annual tax benefit for two and three or more supported children by CZK 3,600 and 7,200, respectively, with effect as of 1 January 2016.

Moreover, dividends paid to parties other than members of business corporations are to be included in foreign tax residents' Czech-sourced income. This rule applies to individuals and legal entities alike.

The amendment will also change the taxation of individuals who operate power plants for which the amended Energy Act no longer requires a license. Such income will no longer be sole proprietor-generated income. Instead it will be considered "other income" as per Section 10 of the Income Tax Act.

The amendment is to transpose the European Parent-Subsidiary Directive, which is designed to eliminate tax obstacles for profit distributions between parent companies and subsidiaries based in different Member States so as to avoid double non-taxation of hybrid loan arrangements (in one Member State a loan instrument is considered a loan while in another it is considered an investment (contribution) in a company as classifications differ from state to state).

CASE LAW

Tax Impact of Absolute Invalidity of Obligations

The Supreme Administrative Court's recent decision held that even absolutely invalid

legal transactions may have tax consequences in certain cases. The actual state of affairs is crucial in terms of taxation, i.e. whether the relevant obligation has made any imprint on the tax entity's tax domain. If a certain fact occurs (if the obligation is actually carried out) and has an impact on the assets of the parties involved, it usually has a tax effect. On the other hand, if it is possible to resolve the absolute invalidity by returning the performance which was rendered, if no performance has yet been rendered, or if a situation in which the obligation would never have existed can be restored, the effects of such legal conduct will have no tax impact.

Tax News includes general information only and cannot substitute for the full wording of the relevant legislation. The information contained in *Tax News* should not be construed as legal advice or legal opinion. Kocián Šolc Balaščík expressly denies all liability for any activities or conduct taken as a result of the information contained in *Tax News*.

If you need more details or would like to know more about specific issues, please contact a KŠB tax advisor. We would be pleased to provide you with more information on any of the issues above.

You're receiving *Tax News* as a valued business partner of Kocián Šolc Balaščík. If you no longer wish to receive *Tax News*, please unsubscribe here: <http://www.ksb.cz/newsletter/unsubscribe/tn>.

KŠB's tax team contact info:

Tel: 224 103 316

Pavla Blažková pblazkova@ksb.cz

Jan Černohouz jcernohouz@ksb.cz

Alena Jurič ajuric@ksb.cz

Tomáš Lízner tlizner@ksb.cz

Helena Navrátilová hnavratilova@ksb.cz



Prague Main Office

Jungmannova 24, 110 00 Prague, Czech Republic
tel.: +420 / 224 103 316, facsimile: +420 / 224 103 234
e-mail: ksbpraha@ksb.cz

Karlovy Vary Office

Závodní 391/96C, 360 06 Karlovy Vary, Czech Republic
tel.: +420 / 353 225 996, facsimile: +420 / 353 227 781
e-mail: ksbkv@ksb.cz

Ostrava Office

Československá 7, 702 00 Ostrava, Czech Republic
tel.: +420 / 553 030 511, fax: +420 / 553 030 512
e-mail: ksbostrava@ksb.cz