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**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**

Na Vyhliďce 53, 360 21 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

**THIRD AMENDMENT TO VAT ACT  
ADOPTED**

The last of three amendments to the VAT Act, which the Upper House sent back with objections to the Lower House in December, was revised, approved and published in the Collection of Laws under No. 360/2014 on 31 December 2014. Although further details about the amendments were included in previous issues of Tax News, we would like to note that the effective date of the temporary reverse-charge mechanism ("RCM") was postponed to 1 April 2015 (to 1 September 2015 for sugar cane). Moreover, the effect of the changes regarding deliveries and leases of selected immovables was postponed to 1 January 2016.

**AMENDMENT TO THE EXCISE DUTY  
ACT**

An extensive amendment to the Excise Duty Act took effect at the end of 2014. Among other things, the amendment changed the rules for disposing of certain mineral oils, and its primary aim is preventative: it should help combat tax fraud in the form of unlawfully mixing untaxed special mineral oils with standard fuels, especially diesel.

The amendment establishes a special list of parties which dispose of the selected mineral oils and it applies to producers, distributors and end consumers alike. However, the mandatory registration duty applies to parties which handle bulk oil or oil housed in vessels of 220 litres or greater. The amendment should not have a profound affect on small distributors and consumers. The transitory provisions require that the parties liable to register must do so by 1 April 2015.

**CLOSER LINK BETWEEN THE  
IMMOVABLES TAX ACT AND THE  
CIVIL CODE**

Amendment No. 23/2015 Coll. to Act No. 338/1992 Coll., the Immovables Tax Act, which took effect on 5 February 2015, revises and provides more details on certain provisions of the Immovables Tax Act in order to achieve greater harmony with and a closer link to the new Civil Code. The amendment provides a better definition of

the subject of tax on land tracts, buildings and apartments, and it introduces the term "taxable apartments" (considered a recently finished or used apartment). The amendment also more precisely defines a "construction tract of land", which is regarded as a tract of land to be built up which does not contain a taxable building. Moreover, the amendment more clearly sets the conditions for awarding tax relief on land where the relief (exemption) to be awarded requires a public transport structure to be built and used on the land tract (as per the occupancy decision or occupancy approval issued by a special Construction Authority). The Act's terminology was harmonized with the Tax Authority's terminology (e.g. "tax assessment" has been replaced with the term "determination of tax" and there are other changes in the terms referring to a taxation period or the penalty for late tax claim).

To ensure they duly discharge their tax obligations in 2016, taxpayers should get familiar with the new terminology. Despite the changes, however, the new rules should not make things more administratively demanding for taxpayers.

**MEASURES TO RESTRICT ABUSE OF  
THE PARENT-SUBSIDIARY DIRECTIVE**

In January 2015, the EU Council amended Directive 2011/96/EU on the common system of taxation applicable to parent companies and subsidiaries of different Member States. The objective of the Directive is to exempt dividends and other profit distributions paid by subsidiary companies to their parent companies from withholding taxes and to eliminate the double taxation of such income for the parent company. The objective of January's amendment is to prevent companies from taking advantage of unintended benefits from the Directive and requires Member States to deny tax benefits to companies which show transactions which merely provide a tax advantage but which otherwise have no due business grounds.

The Czech Republic is required to respond by 31 December 2015 and put in place legislation that will ensure that Czech law is

harmonized with the Directive. Thus, taxpayers will need to be able to prove to the tax authorities that the transactions shown in their tax records did in fact take place on sound business grounds.

## FATCA

In response to the US's Foreign Account Tax Compliance Act (FATCA) and the associated international treaty entered into between the Czech Republic and the United States, the Czech FATCA (Act No. 330/2014 Coll., on exchange of information on foreign accounts with the United States of America for tax administration purposes) was published (took effect) on 29 December 2014.

The information exchange includes the collection and relay of information on US tax residents' accounts from Czech tax authorities to US tax and other contact authorities and vice versa, i.e. exchange of information on Czech tax residents' accounts from US tax authorities to Czech authorities. The Czech FATCA imposes duties related to payments to non-participating financial institutions and regulates fines for failures to discharge non-cash duties owed to Czech financial institutions. The Czech FATCA took effect on 13 January 2015.

## TAX INFORMATION EXCHANGE TREATY WITH THE BAHAMAS AND COOK ISLANDS

The Lower House approved a Tax Information Exchange Treaty entered into with the Bahamas, and a similar Tax Information Exchange Treaty with the Cook Islands in Auckland was signed by the State. However, the Treaty with the Cook Islands has not yet been ratified. Both treaties' aim is to help reinforce a mutual exchange of information with jurisdictions enjoying preferential tax treatment and seek to combat tax evasion and fraud.

## DUTY TO FILE TAX RETURNS ELECTRONICALLY

As of 1 January 2015, all data box owners and parties required to have their annual accounts audited are obliged to file all their tax forms with the tax authority electronically. The requirement applies to, without limitation, registration

applications, notices on changes to registered information, due and additional tax returns, reports, settlement of accounts, etc. The electronic filing in XML format can be made via a data message signed by an acknowledged electronic signature, by verifying the filing party's identity via a method through which the party can log in the data box (both alternatives are available by the Tax Authority's EPO Application) or the relevant form can be sent via the data box, etc.

For failure to comply with this obligation, offending tax entities may be subject to a CZK 2,000 fine, which will become due within 30 days after the tax is assessed by the tax authority.

## GFD PUBLISHES NEW INTERPRETATION RULES FOR THE INCOME TAX ACT

The Czech General Financial Directorate (GFD) posted Instruction No. GFD D-22 on its website on 10 February 2015 in respect of following a uniform procedure in enforcing certain provisions of Act No. 586/1992 Coll., the Income Tax Act. The new instruction has replaced Instruction D-6, which was in effect since 2011. The GFD provides an explanatory interpretation on selected provisions of the Income Tax Act. The Instruction can apply to the taxation period which commenced in 2014.

## GFD ISSUES INSTRUCTION IMPOSING RULES FOR EXEMPTING TAX INTEREST AND CHARGES

In attempting to unify decisions on requests for an exemption from tax interest and charges (a new opportunity for taxpayers), the GFD issued Instruction D-21 in order to specify the grounds on which an exemption can be granted in such cases. As of 1 January 2015, taxpayers can apply to the tax authority to have penalty and late payment interest exempted. However, the penalty cannot be waived if it was notified by means of a tax assessment as of 1 January 2015. The same applies to late payment interest, which can be waived only if it accrues as of 1 January 2015.

## BROADER REQUIREMENTS FOR LABELLING UNRELIABLE PAYERS



### 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

Na Vyhliďce 53, 360 21 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

The GFD's criteria for referring to a VAT payer as an "unreliable payer" have been expanded. Now taxpayers which state false or incomplete information on their VAT registration can be labelled as unreliable. In deciding whether or not to label a party as unreliable, the tax authority must review all objective circumstances which led to the payer's failure to provide correct information. Therefore, this should not have an adverse impact on taxpayers which merely make unintentional mistakes. The tax authority should handle such cases differently, such as by sending a notice or by granting a grace period for paying the tax.

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KŠB's tax team contact info:

Tel.: 224 103 316

Pavla Blažková [pblazkova@ksb.cz](mailto:pblazkova@ksb.cz)  
Jan Černohouz [jcernohouz@ksb.cz](mailto:jcernohouz@ksb.cz)  
Alena Jurič [ajuric@ksb.cz](mailto:ajuric@ksb.cz)  
Tomáš Lízner [tlizner@ksb.cz](mailto:tlizner@ksb.cz)  
Helena Navrátilová [hnavratilova@ksb.cz](mailto:hnavratilova@ksb.cz)



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Jungmannova 24, 110 00 Prague, Czech Republic  
tel.: +420 / 224 103 316, facsimile: +420 / 224 103 234  
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