

JANUARY 2018 No. 1

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## Summary of Basic Personal Income Tax Changes in 2018

In 2018, the tax benefit for the first dependent child was increased from CZK 13,404 to CZK 15,204. No changes occurred for the tax benefit for the second and third child, which remains at CZK 19,404 and CZK 24,204, respectively, per year.

As a result of the increase in the monthly minimum wage from CZK 11,000 to CZK 12,200, the amount of income that taxpayers have to earn to qualify for the tax bonus was increased to CZK 73,200 per year as of 1 January 2018. The income does not include so-called "other income" and income that is exempt from income tax or subject to withholding tax.

The amount for the exemption of regular pensions and other pensions will be increased from CZK 396,000 to CZK 439,200 together with the minimum wage increase.

As of 1 January 2018, withholding tax may be applied not only to income from work performance agreements which do not exceed CZK 10,000 per month from one payer, but also to other income from dependent activities, unless the aggregate amount exceeds CZK 2,500 per month. However, the foregoing is subject to the requirement that the employee did not sign a tax declaration with the particular employer.

As a result of the growth of the average wage, the threshold for applying solidarity tax increased for 2018 from CZK 1,355,136 to CZK 1,438,992 per year.

We would also like to remind you that, as of 2018, the absolute amount of flat-rate expenses that can be deducted by taxpayers with income from self-employment and from renting real property was reduced. The percentage of flat-rate expenses remains the same for individual types of income (80%, 60%, 40% and 30%), but for revenues exceeding CZK 1 million per year, the flat-rate sum is only deducted from the amount of CZK 1 million. For 2017, it is still possible to deduct the flat-rate expense

percentage from the amount of income up to CZK 2 million per year.

## Tax Residence Declaration

All financial institutions in the Czech Republic and in more than 90 other countries are required to meet the Common Reporting Standard (CRS) in respect of checking and verifying the tax residence of their clients who are individuals (natural persons), trusts and business corporations, except for joint-stock (public limited liability) companies, the shares of which are regularly traded on a regulated market, and companies affiliated with or related to them and which may be residents in a country other than where they hold a bank account or other asset account.

Based on the findings, banks and other financial institutions must report certain information on clients who are not Czech tax residents (in particular information on income paid to the account, such as interest, dividends, capital gains, final balances of accounts when they are closed) to the Czech authorities. Subsequently, information is exchanged automatically with contact authorities of the country in which the particular party has tax residence. Thereafter, the Czech contact authority – the General Financial Directorate – will then forward the information to the relevant foreign authorities.

Similarly, foreign financial institutions will also provide the Czech contact authority with information on Czech tax residents, their accounts and income in the foreign country.

The reason for introducing such a measure is to combat tax evasion internationally.

If a tax residence certificate is required, the party concerned must prove his/her/its residence in the Czech Republic or, where applicable, his/her/its residence in the relevant contracting state by presenting an identity card in which the place of permanent residence is indicated, or, as concerns legal entities, a tax residence certificate issued by the relevant tax authority.



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If the party concerned fails to complete a tax residence statement within 30 days of the date of the financial institution's request, the relevant data will be transferred automatically.

## Waiver of Penalties for the Failure to File VAT Status Reports in 2018

The General Financial Directorate updated the D-29 Guideline, which sets out the rules for waving penalties for the failure to file a VAT status report.

Among other things, the amendment extends the validity of so-called "justifiable reasons" (originally limited to the end of 2017) for 2018. Subject to filing an application for waiving the penalty, the following can be waived similarly as in 2017:

- (i) any single fine in the amount of CZK 10,000; 30,000; and 50,000;
- (ii) a fine in the amount of CZK 30,000 due to a late response within 5 business days after the expiry of the deadline for changing, adding or confirming information when the payer confirms the accuracy of the most recently filed status report; and
- (iii) a fine in the amount of CZK 50,000 due to a late response within 5 business days after the expiry of the deadline for filing the status report provided that the duty to file the status report has not been established.

Other reasons can be claimed to the same extent as in 2017.

## Under What Circumstances Can a VAT Payer Become an Unreliable Payer?

The underlying information on applying the Unreliable Payer Doctrine under the VAT Act (Section 106a) was updated as of 1 January 2018.

A VAT payer may now become an unreliable payer even if the tax authority charges him/her/it output tax of more than

CZK 500,000 and the VAT payer fails to pay the amount by the grace deadline granted in the payment order.

Businesses should keep in mind that anyone who does business with a party labelled as an unreliable payer is exposed to the risk of liability for unpaid value added tax on the taxable supply received from such party.

## Rules for Exempting Services Directly Tied to the Import and Export of Goods

In response to the judgment by the Court of Justice of the European Union (Case C-288/16), whereunder export shipping services exemptions can only be claimed by shippers who were assigned to ship the goods directly by the exporter, the Czech General Financial Directorate issued a guideline on applying VAT directly linked to the import and export of goods.

The Guideline will change the administrative procedure which the General Financial Directorate is to enforce as of 1 March 2018.

Thus, the only services that will be capable of being exempted are those that are triggered by the importation or exportation of goods (condition for the link) and, at the same time, that must be provided directly to the exporter of the goods (condition of the method of the link).

However, the tax exemption on the supply of services relating to the import of goods remains if the value of that service is included in the tax base upon import, without the need for a direct link, that is, a contract between the supplier and the importer or recipient of the goods. Therefore, if the carrier is certain that the value of the transport will be included in the tax base upon importing the goods, the carrier may exempt the transport from VAT with the right to deduct.

## 2017 Uniform Rates

The General Financial Directorate recently published the D-36 Guideline, which sets



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forth uniform rates for the 2017 taxation period.

If taxpayers who do not keep books of accounts wish to convert income received in foreign currencies, they are free to choose whether to use an exchange rate determined in accordance with accounting rules or the uniform exchange rate – see Section 38 of the Income Tax Act.

Please note that taxpayers cannot combine different ways of conversion in one taxation period; they can only choose which method is better for them.

## Privacy – GDPR and ePrivacy

We would also like to address the topic of privacy that has enjoyed much attention lately. For those not familiar with the topic, we summarize the most important issues below.

As of 25 May 2018, the General Data Protection Regulation (GDPR) will start to apply in the EU. The Regulation brings about a number of changes to the rules on privacy. Based on our experience so far, there is a great deal of work ahead for companies as they will need to get themselves ready for the application of the GDPR.

Many of the GDPR data protection rules differ from the Czech rules, including key rules and duties such as the existence of a legal title for the processing of personal data and consent from the data subject. The GDPR now also explicitly enshrines some of the doctrines that have thus far only been derived from general or judicial interpretation. This includes, for example, the right to be forgotten, which ensures that data on data subjects are deleted/removed under particular conditions. One brand-new opportunity for the data subject is the right to transfer their personal data. This gives data subjects greater flexibility in selecting certain services, typically financial or telecommunications services, since they will – simply put – be free to pack up their personal data and go to another data administrator or service provider. The new responsibilities include, for example, the obligation to keep records of processing

activities and the obligation to conduct a so-called impact assessment on the protection of personal data, with the aim of thoroughly analysing whether the personal data processing jeopardizes the privacy of the persons concerned or not. There is also a new duty that may be of interest for some administrators: the appointment of a so-called Data Protection Officer. One new detail that is often referred to is the possibility of being fined up to EUR 20 million or 4% of the total worldwide annual turnover of the company for violating personal data processing obligations. A great number of clients already rely on KSB to advise on all GDPR issues and aspects.

The new, or relatively new, privacy rules, specifically in the field of electronic communications, will be subject to another ePrivacy regulation which is currently in the drafting stage. Its final form is not yet known, but it is almost certain that it will apply to, in addition to telephone operators and internet service providers, also to any party that uses electronic communications services for marketing purposes. Pursuant to the draft, the ePrivacy Regulation will also bring severe penalties, albeit "only" half of the ones imposed by the GDPR. It is therefore worthwhile to monitor the legislative development of ePrivacy, which has been somewhat overshadowed by the GDPR.

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



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