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TAX ADMINISTRATOR'S TRANSFER PRICING QUESTIONNAIRE

PROTECTION AGAINST TAX ADMINISTRATOR'S FAILURE TO ACT

TAX CREDIT FOR PENSIONERS REINSTATED

LOANS, BORROWINGS AND GRATUITOUS LOANS – WHAT IS TAXED

TRANSFER PRICING QUESTIONNAIRE ON RELATED-PARTY TRANSACTIONS

The Specialized Financial Office (the "Office"), which is the tax administrator for selected entities and has jurisdiction throughout the Czech Republic, has sent out a transfer pricing questionnaire concerning related-party transactions.

The purpose of the questionnaire is to establish cooperation with tax subjects (including permanent establishments of foreign entities) and to obtain basic information on transfer prices as well as general and comprehensive data on transactions with related parties.

Although filling in the questionnaire is voluntary, the Office's director has stated that if a recipient does not complete the questionnaire or if it provides incomplete, misleading or untrue data, the Office will deal with the taxpayer very cautiously, which means that taxpayers who do not cooperate can expect the Office to conduct a tax audit related to transfer prices.

The Financial Administration announced that after the questionnaires are processed it will consider whether the questionnaire should be sent to other groups of taxpayers.

TAX ADMINISTRATOR'S DEADLINES FOR HANDLING TAX MATTERS

On 1 September 2014 the Ministry of Finance issued Instruction No. MF-4, which sets forth deadlines which tax administrators must meet in processing tax returns. If the tax administrator fails to meet the deadlines, the tax subject may seek redress by notifying the tax administrator's superior authority of its failure to act. The superior tax administrator will then inspect the matter and if the instigation is justified, it will order the subordinate tax administrator to remedy the matter or it will handle the matter itself.

The instruction sets forth the following deadlines:

- Six months for issuing decisions on appeals (made by the Appellate Financial Directorate), decisions on permitting and deciding to re-establish proceedings and decisions on tax exemptions and tax apportionments;

- Three months for issuing decisions on appeals (made by the relevant tax administrator), on binding assessments, on an objection to the tax administrator's actions in the case of tax payments;
- 30 days for issuing decisions on reinstating a deadline, on declaring a failed delivery, on declaring nullity of a decision, on determining advances, on complaints regarding taxpayer conduct, etc.

The instruction sets forth when the deadlines begin, when they are established and when they can be prolonged. Tax proceedings that are not terminated by 1 September 2014 will also be subject to the instruction.

BASIC TAX CREDIT WILL BE REINSTATED FOR PENSIONERS

Following a proposal submitted by a group of senators, the Constitutional Court in Award file No. Pl. ÚS 31/13 dated 30 July 2014 cancelled the legal regulation that since 2013 did not allow pensioners who received old-age pension as of 1 January of the relevant calendar year to claim a tax credit of CZK 24,840.

As soon as this decision is published in the Collection of Laws, working pensioners with employment income may claim the basic tax credit through their employers regardless of whether or not they received old-age pension as of 1 January 2014.

Other pensioners may claim the tax credit in their 2014 tax returns.

According to the Financial Administration's estimates, this change will decrease the amount of personal income tax collected by CZK 1.7 billion.

LOANS, BORROWINGS AND GRATUITOUS LOANS

A welcome change established by the new tax regulation in 2014 for all who received interest-free loans (previously 'borrowings'), borrowings and gratuitous loans relates to the tax-exempt financial



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advantages such individuals gain by the free use of money and other movable and immovable items.

As a result of these changes, things will be easier for employers as regards benefits provided to employees in the form of interest-free loans and free borrowings. Other users will no longer need to determine whether or to what extent they should tax their "advantage".

Unfortunately, this regulation will most likely not last long. The Government has prepared and submitted to the Parliament a draft amendment to the Income Tax Act that would restrict such advantages starting 1 January 2015.

Pursuant to the draft amendment, the financial advantages provided to recipients in the form of interest-free loans, borrowings and gratuitous loans would be subject to income tax if such loans, borrowings and gratuitous grants were provided by employers. The deemed financial advantage of interest-free loans provided to employees will be subject to taxation in cases where the principal exceeds CZK 300,000.

As regards other individuals, the financial advantage would be tax exempt if it was received from a relative or persons sharing the household with the individual or if the amount of the advantage did not exceed CZK 100,000 in the taxation period.

Financial advantages provided to legal entities would be subject to income tax and cannot be tax exempt.

As regards free performance rendered in relationships between related parties, the potential tax impacts thereof on the performance provider must be assessed based on the individual circumstances.

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