

NOVEMBER 2013
(NO. 6)

LEGAL MEASURES

NEW BALANCE SHEET
ITEM

VAT ELECTRONICALLY
ONLY

LEGAL MEASURE OF THE UPPER HOUSE

Income tax

The Lower House has approved the Upper House's legal measure whereby income tax will be changed as of 1 January 2014 in connection with the private law recodification (No. 344/2013, Coll.). The legal measure also included a number of other changes proposed in the original bill.

Selected changes

All gratuitous earnings subject to inheritance and gift tax until the end of 2013 will newly be subject to tax. Many, however, will remain tax exempt.

New definitions of tax-related terms and expressions have been added, such as *tax resident* and *tax non-resident*, *business assets*, *things*, *property-related rights*, *financial lease*, *basic investment fund* and *public benefit taxpayer*. Moreover, terms and expressions of the new private law will also be used, such as *commercial corporation member*, *credit financial instrument*, *lending*, *gratuitous grant*, *usufructuary lease*, *building right*, *trust fund*.

Corporate income taxpayers newly include mutual funds, pension funds, trust funds and unit funds that are taxpayers pursuant to the law of another state.

The time test for a personal income tax exemption in relation to a sale of securities has been extended from six months to three years. The time test for tax exempting each share in a commercial company acquired by one member will be assessed individually starting next year.

The limit for applying withholding tax to taxpayers who failed to sign a tax declaration has been increased from CZK 5,000 to CZK 10,000 per month. This applies only to income from service agreements.

Income earned from practical teaching and practical training, i.e. as related to trainees and students, will be tax exempt (and exempt from social security and health insurance contributions).

The amendment does not permit the following:

- tax credit proposed by the government for childcare services (namely, for placing a preschool-aged

child in a childcare facility) has not been approved;

- preferential treatment of employees introduced by Act No. 458/2011, Coll., has been cancelled;
- dividends, liquidation balance, settlement shares and similar income that were tax exempt pursuant to Act No. 458/2011, Coll., will be subject to the income tax; and
- the 5% tax rate has been preserved for investment funds and the 15% withholding tax rate applies to payouts from such funds.

Tax on acquisition of immovable items

The Upper House's legal measure regarding tax on the acquisition of an immovable item was published in the Collection of Laws under No. 340/2013, Coll.

As regards purchasing or exchanging immovable items, the tax is to be paid by the transferor, unless the transferor and the transferee agree otherwise. In other cases, the transferee is the taxpayer.

Acquisition of a building right will also be subject to taxation based on the concept of "immovable item" as defined in the new Civil Code.

Acquisition of an immovable item for consideration through usucaption, a trust fund or acquisition of a structure unrightfully built on a third party's land will also become subject to taxation.

The scope of tax exempt items has also been changed. Contributions of real property to the registered capital of a commercial company will no longer be tax exempt. On the contrary, first transfers of apartments and new family houses for consideration will generally be tax exempt provided the real property is transferred within five years from the date of the occupancy permit.

The new act also limits the obligation to present expert opinions for determining the tax base. Provided certain conditions are fulfilled, expert opinions will no longer be required, for example in the case of a transfer of immovable items used for housing or recreation, garages, etc.



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The tax base is defined as the acquisition value, which can be reduced by demonstrable costs incurred for the expert opinion. Depending on the circumstances, the acquisition value is understood as an agreed price, comparative tax value, identified price or special price.

The tax base for most contractual transfers will be determined based on the agreed price, which will mostly be compared with the comparative tax price.

The deadline for filing a tax assessment and the 4% tax rate have not been changed.

ACCOUNTING

Given the approaching date for compiling financial statements as of 31 December 2013, we would like to bring to your attention the new and crucial provisions of Decree No. 500/2002, Coll., implementing certain provisions of the Accounting Act for entrepreneurs' accounting units (hereinafter the "Decree"), which took effect on 1 January 2013.

The amendment to the Decree has introduced a new registered capital item A. IV. 3. Other profit/loss from previous years. Under this item, accounting units must show any differences arising from a change in accounting methods, deferred tax accounted for in the first year when deferred tax is accounted, and corrections of significant errors from previous accounting periods.

There is also significant change as related to correcting errors that occurred in previous years and to using a different accounting method than in prior accounting periods. As of 1 January 2013, such corrections or changes must not influence the profit/loss of the current accounting period.

Accounting units must describe changes in accounting methods and errors shown under the relevant item in an annex to the financial statements and also reflect the information in the financial statements so that it is comparable.

Accounting units are to decide on the allocation or settlement of "Other profit/loss from previous years" when approving the financial statements.

Certain impacts of accounting corrections in previous years will have to be reflected in additional tax returns.

VAT RETURNS TO BE FILED ELECTRONICALLY NEXT YEAR

As of 1 January 2014, VAT payers will be required to file all tax returns under the VAT Act electronically only. This does not apply to individuals whose turnover is less than CZK 6 million for up to 12 consecutive calendar months.

In addition to summary reports and extracts from tax records under the reverse charge mechanism, regular and additional tax returns and reports, including their annexes, will also newly be filed electronically.

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

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