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TAX news

Grants & Incentives news

dReport: June 2018

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Contents

New Notification Duties for Tax Payers

The Government of the Czech Republic is preparing an amendment to the Income Taxes Act, with anticipated effect from 2019, which still has to undergo the readings in the Parliament. As we have already informed you in previous dReport issues, the amendment primarily aims to implement the ATAD directive of the EU as well as other significant modifications which were added to the amendment subsequent to the standard consultation procedure.

These modifications include an **introduction of the new notification duty for tax payers with respect to income exempt from tax or income non-taxable in the Czech Republic pursuant to international Double Taxation Treaties**. However, this relates to income generated by tax non-residents from sources in the Czech Republic which are subject to withholding tax.

Form and manner of notification

- Notifications should be made in a similar manner as in the case of income which is currently subject to withholding tax. The payer thus has to **identify the income recipient and report data concerning the income paid.**
- Audited entities and entities with a data box will have to make the filing via a data box. Unaudited entities may use a printed form issued by the Ministry of Finance of the Czech Republic or its own output including all statutory requisites.
- Notifications should be made **until the end of the month following the one in which the income was paid**. A payer's failure to comply with this non-monetary duty may result in a penalty of up to CZK 500,000, or higher if the filing was not made in electronic form where the payer was required to do so.

Exceptions

- The above-specified income of the same type not exceeding CZK 100 thousand in a calendar month is to be exempt from this duty.
- For serious reasons, the tax administrator may release a payer from the notification duty for a period of up to five years.

Practical implications of the new duty

Among other things, the notification duty will predominantly apply to dividends, interest and licence fees paid by Czech businesses to foreign parent companies or other foreign entities.

The tax administration was already able to obtain the majority of required data; nevertheless, additional administrative burden is placed upon payers, including the accurate interpretation of Double Taxation Treaties.

The data received by the tax administration should also be used for international information exchange with other jurisdictions.

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CbC Reporting: the First International Exchange of CbC Reports is Approaching

The first international exchange of Country by Country ("CbC") Reports will be performed by tax offices in June 2018 for the first time. The Czech tax administration will have available a new instrument to review transfer pricing.

In 2017, an amendment to the Act on International Cooperation in Tax Administration introduced a new notification duty in the Czech Republic as part of the international information exchange, referred to as Country by Country Reporting. This amendment stipulates a duty for groups of companies with consolidated global income exceeding EUR 750 million to file the Country by Country Report to tax administrations on an annual basis, summarising financial information of this group. The duty to file the CbC Report, which is subsequently subject to automated information exchange between individual countries, to the tax authority is usually carried out by the ultimate parent company in the state of its residence on behalf of the entire group.

Groups of companies in the Czech Republic and in cooperating countries most frequently filed the first CbC Reports in December 2017 for the 2016 taxation period. As CbC Reports are filed pursuant to legislation in the relevant country, deadlines as well as the respective taxation periods may vary.

A list of jurisdictions to which the automated information exchange with the Czech Republic applies was published in the February issue of the Financial Bulletin (02/2018). The first exchange of CbC Reports between those jurisdictions should take place in June 2018. From this date, tax administrations will have available another tool for the monitoring of international group transactions.

In the CbC Report, multinational groups of companies must publish especially the following information:

- In which countries (jurisdictions) the group operates;
- The amount of revenues generated by the group with related and unrelated parties in individual countries;
- The group's profit or loss before tax in individual countries;
- The amount of tax paid;
- The amount of the group's registered capital and number of employees in individual countries;
- The amount of the group's tangible assets other than cash and cash equivalent in individual countries etc.

For each country, the group must provide a list of entities operating therein, specifying the character of their business activities.

What are the potential implications of exchanging CbC Reports for Czech companies?

Pursuant to available information, the tax administrator will combine data from the CbC Report with information included in the transfer pricing annex to the tax return and other information available to it. Based on this information, the tax administrator will select entities, or transactions, exposed to risk for a possible in-depth analysis.

Various combinations of reported data may be considered exposed to risk: high payments for licence fees, interest and management services to countries in which companies have a low number of assets/employees while reporting high revenues vs. low taxation rate. Tax administrations will certainly focus on situations in which the group's production plants (for which a similar activity may be anticipated) report in individual countries different profitability levels under similar turnover, in consideration of the aggregate taxation rate etc.

In order to eliminate risks, we recommend that companies which are subject to CbC reporting give sufficient attention to the CbC Report. Unless it is available to them, companies should require the CbC Report from the Group well in advance and verify the information included therein. We recommend analysing the report from the viewpoint of the tax administration – how the reported data may be interpreted by the tax administration and what other issues may possibly arise.

Subsequently, we recommend assessing the outcomes of the analysis in view of the supporting documentation used by the company to prove, during tax audits, the pricing in group transactions, along with transfer pricing documentation if available. Such review may indicate potential areas for debate with the group that may clarify some issues, or a need to provide additional documents or promptly address the situation. Such actions should certainly be performed prior to an audit by the tax office.

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Corporate Income Tax Return Advanced topics

Due to positive feedback on our previous article, we decided to point out several other areas where people often make mistakes during the preparation of the corporate income tax return. This area will also be discussed during our online webcast on 5 June 2018.

1. Inventory and its tax deductibility

Inventory taking should serve as a means of correct assessment of tax deductibility of the individual situations that can occur with respect to inventory. Aside from the well-known reasons for disposals of inventory (such as sale), which are usually a tax deductible expense (hereinafter "TDE"), there are many situations which require deeper knowledge of this area.

Donation of inventory

If you decide to donate some inventory, the expense arising in such a way is as a rule a non-tax deductible expense (hereinafter "NTDE"). The only exception is promotion objects meeting the legal conditions, i.e. it must be an advertising object with the input price lower than CZK 500 net of VAT per piece.

Deficits and damages

With some exceptions, they are NTDEs. However, we would like to point out the definition of "damage", which means something different according to the Income Taxes Act than what we would normally imagine, and it is essential for assessing the relevant case. Damage represents e.g. impairment that led to disposal of the asset, i.e. it does not apply to small damage to goods that is subsequently repaired.

If your company records inventory where disposals occur naturally (e.g. drying up, evaporation), we recommend starting to consider setting up an internal "natural disposal standard". If you are able to defend the standard to the tax administrator, the respective disposal may be a TDE up to the given amount.

If someone steals your inventory, you can also treat the expense as a TDE in some cases. E.g. if you have a police report stating that it was committed by a person unknown, or if you report related income (whether from the perpetrator or the insurance company).

Did you liquidate assets during the year? In order to prove the tax deductibility of this expense, you need to have the liquidation report, containing strictly set elements as per the Income Taxes Act.

Sometimes damage can be caused by nature. If it is a so-called natural disaster, the related expense is a TDE. But be careful, not all nature manifestations may be characterised as natural disasters. Has wind blown away part of your inventory? It is a natural disaster only if the speed of the wind exceeded 75 km/h.

Another possibility is accidental exchange. If a warehouse worker mistook one (easily mistakable) type of inventory for another type of inventory and during inventory taking you subsequently identify surplus in one type and deficit in the other, in justified cases you can use the institute of accidental exchange and offset the surplus against the disposal.

Last but not least, we would like to point out that unlike the "old" version of the VAT Act, where the amount of deficit deduction was adjusted in the current taxation period, according to the current wording of the Act, for destroyed, lost or stolen inventory the amount of deduction that was claimed in a previous VAT return must be adjusted.

2. Assets

With the amendment to the Income Taxes Act (hereinafter the "ITA") from 1 July 2017, the inconspicuous words "at least" have been added to the number of months given by the ITA as the period of amortisation of intangible assets (e.g. software is now newly amortised over *at least* 36 months). The potential extension of the amortisation period is applicable only to companies whose financial year began after the amendment to the ITA, i.e. companies using the calendar year (from January to December) will use it only for the tax return for 2018.

3. Rent vs. lease

Most companies are now able to distinguish between operating and finance leases and they are aware of the related tax consequences of both treatments. Starting from 1 July 2017, a new restriction has been incorporated, which means that intangible assets and tangible assets excluded from depreciation may no longer be the subject of finance leases.

Another problematic area seems to be the technical improvement performed by the lessee on the leased asset. You should always consider the tax consequences and not limit yourself only to the legal assessment of the respective contracts. If, for example, you as the lessee terminate the lease agreement, do not eliminate the technical improvement and receive no reimbursement from the lessor for the expenses incurred, the carrying amount will irretrievably become a non-tax deductible expense. It is therefore necessary to always think about the tax impacts, which may occur several years after the conclusion of the contract, already at the time of concluding the contract.

4. Marketing and gifts

Here, we would like to point out the careful differentiation between gifts and sponsorship – they have the opposite regime of tax assessment.

If you decide to give out anything, it is your obligation to be able to bear the burden of proof in the event of a tax audit. If, for example, you give out your company's samples or promotion objects at children's day, photo documentation of the event will certainly come in handy when you need to prove that the recipients of the objects were not e.g. your employees (the tax treatment would be different).

If you decide that to boost your sales with marketing support, e.g. television advertisements, with a cost exceeding CZK 60 thousand and useful life greater than one year, it would be a mistake to recognise this expense only once; from the ITA perspective this is a fixed asset whose acquisition cost will appear in expenses via depreciation for tax purposes.

5. Investment incentives

If your company operates in the investment incentive regime, you should pay increased attention to transfer pricing within the group to make sure the prices are in line with the arm's length principle.

Since this is an additional benefit in the form of public support, it entails a wide variety of obligations. Among other things, it is necessary to maximise all deductions from the tax base (i.e. The utilisation of loss, deduction for research and development and deduction for the support of professional education), maximise depreciation and tax provisions against receivables.

6. Research and development deduction

The number of tax audits focused on research and development deductions has grown substantially in recent years. Never forget that project documentation is a prospective document that looks to the future, but failure to comply with (even just formal) requirements on its content or the failure to sign it before the initiation of development activities leads, according to the current practice of tax offices, to the exclusion of the whole deduction from the tax return and to the application of all sanctions allowed by the Tax Code

Aside from this, you also need clear and demonstrable separate expense records (posting on synthetic accounts is not sufficient). Last but not least, when defending activities you have assessed as research or development, you may benefit from an expert opinion of an independent expert institute. It is not a legal requirement but given the current tax audit practice we strongly recommend it.

7. Provisions against receivables

At present, you can still record receivables against which provisions are recognised based on the "old" regime, and those whose recognition follows the current rules set by the Reserves Act. With the new Civil Code, the limitation period of receivables has been shortened. If your receivable happens to be past the limitation period, you cannot create a provision against it (not even a partial one). Your legal department should therefore keep a close eye on the limitation period of receivables, among other things.

8. Expenses related to holding an equity investment in a subsidiary

Have you received dividends from a subsidiary that you record in your tax return as income exempt from tax? Then you should not forget about a review on the side of expenses, since all direct expenses (e.g. interest on loans) and indirect expenses (e.g. part of staff costs) are NTDEs. In addition, if you are unable to prove that the amount of indirect expenses is lower than 5% of the value of received dividends, this amount will become a NTDE. It is a partial paradox that the ITA will force you to make this adjustment even if your subsidiary is in liquidation and you cannot exempt your dividend income from tax (you will therefore have taxable income and the related NTDE).

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Cancellation of super-gross wage recalled

Personal taxation will remain unchanged next year

The Ministry of Finance withdrew its original proposal to cancel super-gross wage and the related conceptual changes in the personal income tax calculation. The proposal was part of an amendment to the Income Taxes Act with the proposed effective date from January 2019, which will now contain only the implementation of the Anti Tax Avoidance Directive (ATAD).

The income of natural persons will therefore continue to be taxed at 15%, with a solidarity tax surcharge of 7% for income exceeding the 48th multiple of the average wage per year. Since the work on the new act on income taxes (which we informed you about several months ago) has been suspended, employers and taxpayers can enjoy legislative peace. It is impossible to rule out last-minute surprises in the form of parliamentary draft proposals during the discussion of the tax amendment for 2019, but they are not expected.

However, we recommend paying attention to the changes in interpretation by the Financial Administration, especially with respect to personal income tax prepayments of tax non-residents and residents working abroad. Tax authorities complicate the reimbursement of amounts overpaid and challenge the method of calculation of tax prepayments, the correct calculation of prepayments therefore becomes a difficult task where it is worth contacting tax specialists for assistance.

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Amendment to the VAT Act

An amendment to the VAT Act with the proposed effectiveness from January 2019 has been referred to the Government of the Czech Republic for consideration. Another critical change was added to the amendment, concerning the taxation of supplies of goods including assembly by a person established in a country other than the Czech Republic. If both the supplier and the customer are VAT payers, the supplier will have to invoice the supply including Czech VAT (the supply would be subject to self-assessment by the customer through the end of 2018).

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Judicature of the Court of Justice of the EU (CJEU)

The judgment in case C-81/17 Zabrus demonstrates that tax administrators must not reject a claim for a VAT deduction applied as part of additional tax returns if all substantive criteria for its application are met. This gives rise to the question whether tax payers may retrospectively elect the taxation periods for which VAT deductions will be claimed.

The Advocate-General of the CJEU in his opinion on case C-249/17 – Ryanair provided a new point of view as regards the possibility of applying a VAT deduction from the purchase and holding of business shares where the respective subsidiary is not provided with any taxable supplies. The Advocate-General opines that it is still possible to apply the tax deduction under certain circumstances, which is contrary to previous judgments of the CJEU to a certain extent. It is uncertain whether his opinion will also be adopted by the CJEU.

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News round up

EU publishes provisions for evaluating the impact of CCTB on national tax revenues

On 20 April 2017, the EU Council published specific provisions for evaluating the impact on national tax revenues of the proposed directive on a Common Corporate Tax Base (CCTB). The key provisions of the CCTB proposal which will be observed are: whether or not the scope of EUR 750 million is maintained (Article 2), whether a qualifying subsidiary should have a right to exercise more than 50 % of the voting rights (Article 3), certain definition in Article 4, elements of the tax base in Article 7, the revenues which are exempted from the taxation (Article 8), the items which are considered as tax deductible/non-deductible (Articles 10 a 12) and the assets which may be depreciated individually (Article 33).
The evaluation of the observation will take place throughout 2018 by member states with technical assistance from the European Commission services.

EU proposals to ease moves of company seat to another member state

On 25 April 2018, the European Commission issued a press release announcing a draft directive that would introduce common EU-wide procedures for a company to move from one EU member state to another, or merge or divide into two or more new entities across borders. Individual member state rules in this area currently differ considerably or contain administrative hurdles, which discourage businesses from pursuing new opportunities, and creates potential for inadequate protection of employee, creditor and minority shareholder interests. The new rules for cross-border conversions and divisions would include specific anti-abuse measures, such as effective safeguards against abusive arrangements to circumvent tax rules, undermine workers' rights or jeopardize creditors' or minority shareholder interests. The directive would allow companies in all EU member states to electronically register, set up new branches or file documents with the business register (currently only 17 member states allow online company registration).

Chile announces activation of treaty MFN clauses

On 19 April 2018, the Chilean tax administration published Circular 22/2018, announcing that the conditions for activation of the most favoured nation (MFN) clause in the tax treaties signed by Chile with the Czech Republic, Denmark, Ireland, Korea (Rep.), Poland and the United Kingdom have been met. The conditions were met with the entry into force of the Chile - Japan Income Tax Treaty (2016), which lowers certain withholding tax rates for interest and royalties in the aforementioned countries. The new rates are applicable as from 1 January 2017.

Hong Kong proposes tax incentives for R&D costs

The Inland Revenue (Amendment) (No.3) Bill 2018 (the Bill) was gazetted by the government on 20 April 2018. By amending the Inland Revenue Ordinance (IRO), the Bill seeks to provide for enhanced tax deduction for expenditure incurred by enterprises on qualifying research and development (R&D) activities in Hong Kong. Currently, the IRO provides 100% deduction for R&D expenditure, as well as capital expenditure incurred in the purchase of plant or machinery for R&D purposes, in the year it is incurred. Subject to the passage of the Bill, enterprises will be able to enjoy additional tax deduction for domestic R&D expenditure incurred. The first HKD 2 million spent on qualifying R&D will enjoy a 300% tax deduction, and expenditure beyond that threshold will enjoy a 200% tax deduction. In addition, there is no cap on the amount of enhanced tax deduction.

Lithuania to become member of OECD

OECD Countries agreed on 3 May 2018 to formally invite Lithuania to become a member of the Organisation, with the signing of an Accession Agreement planned during the upcoming meeting of the OECD Council at ministerial level on 30-31 May in Paris. Lithuania's membership will take effect after it has taken the appropriate steps at the national level to accede to the OECD Convention and deposited its instrument of accession with the French government, the depository of the Convention. Lithuania's accession will extend OECD's membership to 36 countries. Throughout its accession process, Lithuania has been reviewed by 21 OECD Committees on two fronts: an evaluation of the country's willingness and ability to implement substantive OECD legal instruments, as well as a detailed assessment of Lithuania's policies as compared to OECD best practices. As part of the process, Lithuania undertook a number of important reforms in areas such as the corporate governance of listed and state-owned enterprises, anti-corruption and investment.

Netherlands announces transitional regime for upcoming fiscal unity regime amendments

On 20 April 2018, the State Secretary for Finance announced the introduction of a transitional regime (subject to conditions) with a view to the upcoming amendments to the fiscal unity regime designed to remedy incompatibilities of the regime with EU law, following a judgement of the Court of Justice of the European Union. Article 10a of the Corporate Income Tax Act (CITA) stipulates that the deduction of interest, including costs and currency exchange losses, is denied if a related party grants a loan to a company which uses that loan for certain "tainted" transactions (i.e. A profit distribution or repayment, a capital contribution and/or the acquisition or an extension of a participation in a company which becomes a related company after this acquisition or extension). Currently, the effect of article 10a is more beneficial in situations where a fiscal unity exists than where no such unity exists). Under the legislative proposal this article would be applied as if no fiscal unity exists.

Slovak Republic: Guidelines for taxation of non-resident operators of digital platforms

On 28 March 2018, the tax administration issued guidance regarding the taxation of non-residents that perform regular intermediation of accommodation and transport services within the Slovak Republic through digital platforms. From 1 January 2018, the Slovak Republic amended the definition of permanent establishment based on which non-resident operators of digital platforms that repeatedly facilitate the conclusion of contracts for providing transportation and accommodation services are deemed to carry out the activities through a fixed place of business in the Slovak Republic. As a consequence, non-resident operators of digital platforms must register a permanent establishment in the Slovak Republic by the end of the month following the month when these repeated activities are carried out. Additionally, the guidelines clarify that these rules apply irrespective of whether there is a tax treaty concluded between the Slovak Republic and the country of residence of the foreign operators.

Sweden: Proposal to restrict deductions of interest expense revised

On 21 March 2018, the Swedish government presented a revised proposal to restrict the deduction of interest expense and reduce the corporate tax rate. The proposed measures would implement the EU anti-tax avoidance directive (ATAD I and II) and the relevant recommendations under the OECD BEPS project into Swedish law. The revised proposal would introduce a general interest deduction limitation rule that would restrict a company's deduction for net interest expense (the amount of otherwise deductible interest expense that exceeds taxable interest income) to 30% of tax EBITDA. The revised proposal also provides for a two-step reduction in the corporate income tax rate: the rate would be reduced from the current 22% to 21.4% in 2019, and then to 20.6% by 2021. If approved, the changes would be effective as from 1 January 2019.

Sweden clarified VAT exemption for companies with turnover of not more than SEK 30,000

On 2 May 2018, the Tax Agency published a clarification on the VAT exemption for companies with a turnover estimated to be not more than SEK 30,000 during the tax year and whose turnover has also not exceeded that amount in the two preceding fiscal years. The exemption does not apply to all sales and purchases where the company as a buyer will declare outgoing VAT. For newly started companies, the assessment regarding whether the threshold will be exceeded must be based on future sales and an adjustment must be made if the tax year is shorter or longer than 12 months. The clarification provides that the determination of whether the exemption applies is not affected by whether the business has been taken over from another person or another subject that had a higher turnover.

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Topical comments on the distribution of profit in capital companies – an interpretation shift

As the deadline to complete financial statements is drawing closer (for most companies) it is time to recall the legislative conditions for possible considerations on the distribution of profit and other equity funds. From the tax perspective, most distributions of dividends among capital companies are exempt from income tax; however, the interpretation of the legal framework, which limited the deadline to make a decision on profit distribution, has shifted.

Recently, there has been a significant shift in the interpretation of the rules for the distribution of equity funds of capital companies. There was a change in the use of the regular financial statements for making a decision on the distribution of profit after the expiry of the six-month deadline for the approval of the financial statements by the General Meeting from the end of the reporting period as stipulated by law. There is a new interpretation that distribution based on regular financial statements may also take place after more than six months after the expiry of the reporting period.

The above-specified approach has never resulted from the wording of law; it was inferred in judicature in the period of the then-effective Commercial Code. The Supreme Court[1] inferred that the deadline to call the regular General Meeting to approve the regular financial statements is also the deadline within which the financial statements may give a true and fair view of accounting and within which thus shareholders can make qualified decisions on profit distribution. This conclusion, albeit criticised, was enforced in practice.

After the effective date of the new Civil Code and the Act on Business Corporations, it was still unclear whether the above-mentioned court interpretation would be adopted in respect of the new law. Similarly as a number of other unclear issues, this matter was discussed for quite a long time, however, the professional legal public has come to the conclusion[2] that under the new law this approach will not be implemented. The key argument is the expansion of rules to pay out equity to include the insolvency test, which was not required by the Commercial Code.

In addition to the limits for the equity distribution contained in the provisions for a limited liability company and a joint-stock company[3], the Act on Business Corporations also stipulated a "golden" rule with respect to the payment, which is fully within the competence of the statutory bodies. The rule is the above insolvency test. The Act refers to the definition of bankruptcy under the Insolvency Act. In practice, it means that a statutory body should make an economic consideration and a corresponding calculation before funds are provided to shareholders.

We may conclude that a decision on the distribution of profit or other equity funds based on regular financial statements approved by the General Meeting may also be made in <u>the second half of the following reporting period</u> without any worries that the former judicature interpretation will prevail. The Act does not prohibit (and so it is permissible) deciding on the distribution of profit, even repeatedly, until the end of the following reporting period. From the perspective of statutory bodies, compliance with legal requirements for distribution and performance of insolvency testing before the payment should always be appropriately documented.

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[1] Decision file no. NS 29 Cdo 4284/2007 of 30 September 2009
[2] Štenglová, I., Havel, B., Cileček, F., Kuhn, P., Šuk, P.: Act on Business Corporations. Comments. 2nd issue. Prague: C. H. Beck, 2017, p. 688. *"Under the Commercial Code regime, the Supreme Court has inferred that the deadline to call the General Meeting... is logically... the deadline within which the results of the financial statements to be used for the discussion of the regular General Meeting may be considered to be those that may give shareholders a true and fair view of accounting of a joint-stock company based on which they may make a qualified decision on profit distribution" (NS* 29 Cdo 4284/2007*). Although the Act on Business Corporations also determines that "a profit share is determined based on regular or extraordinary financial statements approved by the highest body of the business corporation" (Section 34 (1)) and, at the same time, it provides for the deadline to discuss regular financial statements of a joint-stock company we believe that the above-mentioned conclusions will no longer be implemented. It is because that the new Act – as opposed to the Commercial Code – explicitly determines the 'insolvency test' (Section 40 (1)), which should be sufficient to achieve the goal pursued by the above-quoted decision (ie to prevent from paying profit shares "at the expense" of a company's creditors). Moreover, in companies that have issued shares with a fixed profit share (refer to Section 276 (3) and Section 348 (4) and comments thereon), an opposite conclusion would cause inequality between shareholders holding this type of shares and other shareholders; as the right for a fixed profit share for the previous reporting period arises as of the first day of the following reporting period (if profit was generated in the previous reporting period) whereby Section 348 (4) only provides for the due date, the shareholders (as opposed to other shareholders) would receive a fixed profit share even if the General Meeting fails to decide on profit distribution within six months."*
[3] Sections 161 (4) and 361 (1) and (2) of Act no. 90/2012 Coll., on Business Corporations and Cooperatives (the Act on Business Corporations), as amended

Record in the register of beneficial owner data

Starting from 1 January 2018, all legal entities and trust funds have been obliged to record information of their beneficial owners in a public register – register of beneficial owner data. This obligation is newly imposed in connection with the amendment to Act No. 253/2008 Coll., on Certain Measures against Money Laundering and Terrorism Financing ("AML Act") and Act No. 304/2013 Coll., on Public Register of Legal Entities and Natural Persons.

Who is the beneficial owner?

Pursuant to Section 4 (4) of the AML Act, a beneficial owner is the natural person who has, de facto or de jure, the possibility to directly or indirectly exercise control over a legal entity, trust fund or another legal organisation without legal personality. The beneficial owner is always a specific natural person. The AML Act also states which facts may indicate the beneficial owner. However, the meeting of these criteria does not necessarily have to mean that the person is the beneficial owner. It is always necessary to assess whether this person has the possibility to exercise control.

Companies are obliged to identify their beneficial owner and record current data to discover and verify the identity of the beneficial owner including information about the fact that serves as a basis for being in the position of beneficial owner or another justification why this person is considered to be the beneficial owner.

Register of beneficial owner data

The register of beneficial owner data is a non-public register. Information about the beneficial owner is not provided together with a copy of the record in a public register and it is not disclosed. An extract from the beneficial owner data may be obtained by the recorded person. An extract from the beneficial owner register in a limited scope may be obtained by a person who proves interest in terms of preventing criminal acts of handling stolen goods, money laundering, their source criminal acts, and the criminal act of a terrorist attack.

Remote access to the register will be available for courts, law enforcement authorities, tax authorities, the Financial Analytics Office, the Czech National Bank and other state authorities. Remote access will also be available to obliged entities as per the AML Act that will be able to use the data recorded in the register of beneficial owner data as part of customer identification and due diligence.

Record in the register of beneficial owner data

Legal entities recorded in the Commercial Register must record their beneficial owner in the register by 1 January 2019. Other entities obliged to record their beneficial owner in the register must meet this obligation by 1 January 2021.

The following information about the beneficial owner is recorded in the register:

a. Name and address of permanent residence (as well as temporary residence if applicable);
b. Date of birth and personal number, if assigned;
c. Nationality;
d. Information about the fact that serves as a basis for being in the position of beneficial owner.

Information about the fact that serves as a basis for being in the position of beneficial owner is supported by the relevant documents. Such a document may be, for example, an extract from a record in a public register or foundation documents.

The record in the register of beneficial owner data is not subject to a fee until 1 January 2019; after this date the fee will amount to CZK 1,000.

What are the consequences of the failure to record the beneficial owner in the register?

Legal regulations do not set a direct sanction for the failure to comply with the obligation to record data on the beneficial owner in the beneficial owner register, but such a conduct may have a negative impact on the company's business activities. The failure to record the beneficial owner in the register may lead to the impossibility to participate in public tenders or to obtain a grant from EU funds, and make obtaining bank financing more difficult.

Based on the announcement published on the website of the Ministry of Industry and Trade, the management body of the Operational Programme Enterprise and Innovation for Competitiveness anticipates that calls announced from June 2018 will include a condition that the applicant for a programme grant cannot be an entity whose beneficial owners are not recorded in the register of beneficial owner data as of the day of filing the application.

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Tax liabilities – June 2018

June		
Monday, 11	Consumption tax	Tax maturity for April 2018 (except the consumption tax on alcohol)
Thursday, 14	Intrastat	The Intrastat statement for May 2018, paper version
Friday, 15	Income tax	Quarter or half-year tax advance payment
Monday, 18	Intrastat	The Intrastat statement for May 2018, electronic version
Wednesday, 20	Income tax	Monthly payment of deducted advance payments on personal income tax from employment
Tuesday, 26	Value added tax	Tax return and tax for May 2018
		EC Sales List for May 2018
		Tax control statement for for May 2018
	Energy taxes	Tax return and tax maturity on gas, solid fuels and electricity for May 2018
	Consumption tax	Tax maturity for April 2018 (only the consumption tax on alcohol)
		Tax return for May 2018
		Tax return for claiming of refund of consumption tax, for example on fuel oil, other petrol (benzine) for May 2018 (if applicable)

Tax liabilities – July 2018

July		
Monday, 2	CRS (GATCA) report	Submission of announcement according to Section 13k of Act No. 164/2013 Coll., as amended
	FATCA report	Submission of announcement according to Section 13k of Act No. 164/2013 Coll., as amended
	Income tax	Submission of tax return and payment of tax for 2016, if the taxpayer has obligatory audit or the tax return is elaborated and submitted by the tax advisor
		Payment of special-rate withholding tax for May 2018
Tuesday, 10	Consumption tax	Tax maturity for May 2018 (except the consumption tax on alcohol)
Monday, 16	Road tax	Advance payment of tax for 2nd quarter 2017
Tuesday, 17	Intrastat	Submission of statements for intrastat for June 2018, paper form
Thursday, 19	Intrastat	Submission of statements for intrastat for June 2018, electronic form
Friday, 20	Value added tax	Tax return and maturity of the MOSS VAT
	Income tax	Monthly payment of deducted advance payments on personal income tax from employment
Wednesday, 25	Lotteries and other similar games	Submission of statement to advanced payment on lotteries and other similar games and payment of advanced payment for 2nd quarter 2018
	Value added tax	Tax return and tax for Q2 and for June 2018
		EC Sales List for Q2 and June 2018
		VAT control statement for Q2 and for June 2018
	Energy taxes	Tax return and tax maturity on gas, solid fuels and electricity for June 2018
	Consumption tax	Tax maturity for May 2018 (only the consumption tax on alcohol)
		Tax return for June 2018
		Tax return for claiming of refund of consumption tax, for example on fuel oil, other petrol (benzine) for June 2018 (if applicable)
Tuesday, 31	Income tax	Payment of special-rate withholding tax for June 2018

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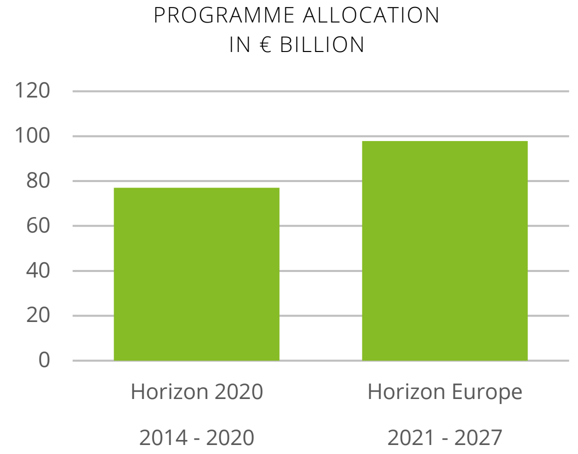
Budget approved for the Horizon 2020 successor programme entitled Horizon Europe

The current Horizon 2020 programme will be replaced by the ninth science and research framework programme entitled Horizon Europe. As part of the new programme, it will be possible to draw funds in 2021 – 2027 for the support of research and innovation, for example in the form of prototype development or the transfer of know-how and technology.

As proposed by the European Commission, the new programme should allocate € 98 billion, which represents an increase of € 21 billion compared to the current budget of the Horizon 2020 programme. This reflects the efforts of the European Commission to enhance investments in areas such as research and innovation, strategic infrastructure or digital transformation, which should be key for unlocking future growth and addressing common challenges such as decarbonisation or demographic changes.



Unlike Horizon Europe, which anticipates increasing the allocation compared to the preceding period, the allocations to the European Structural Funds programmes decrease. Latest information indicates that the amount intended for the Czech Republic in the new EU programming period will be approximately 15 – 20% lower compared to the allocation that was available in 2014 – 2020. In absolute numbers, this could represent a decrease from approx. CZK 600 billion to approx. CZK 500 billion. With respect to this fact, the increase in the funds available in Horizon Europe becomes even more interesting for Czech entrepreneurs, who should in the future consider not just grants as part of structural funds or national subsidies, but also the grant funds allocated directly by the European Commission, such as the Horizon Europe programme, the LIFE programme or the programmes of the ESA (European Space Agency).

Contacts

If these issues relate to your company, we would be happy to provide you with more detailed information.
Feel free to contact us at any time

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