



Dear ladies and gentlemen,
This past winter wasn't quite up to par and it seems as if we may not have much of a spring to enjoy either, so the time between the May issue of

the LERIKA Newsletter and the full summer season may appear to be quite short. Some people miss the colder weather season, others prefer the heat of summer, but neither group is able to really do anything about it. So nothing remains but to accept the way things are and make the best of them. And of course appreciate news, which even though it isn't good, at least isn't bad. For example, the fact that we survived submitting our tax returns in good health.

It even looks as if, after many years, the economy is finally doing better. As compared to the hastiness of nature, the markets are slowly recovering, even though some sceptical economists predict that there is another crisis on the horizon. But in the next few months at least, companies will not be

downsizing and many of them will be better off than they were a year ago.

Somewhere in the background of this slight and fragile optimism, there lurks the question of how taxes, tax laws, and reporting obligations will change. There are many rumours circulating as well as some indications of the possible options. Some are, in principle, positive, others catastrophic, but they are all uncertain. What will be the situation with control reports? Will the electronic registration of sales transactions be implemented? Starting when? What will the actual system look like? Will we continue to send our tax returns using the data mailboxes, or will another channel be introduced? And many more...

Amongst all this confusion, the best advice is that you shouldn't let it get you down. Hire a good accountant who carefully monitors events. One who responds in time when it is necessary. One who knows what the authorities want and knows how to deal with it in the best manner possible. And don't forget to read the LERIKA Newsletter and our Tax News! They are always full of information about what has already been approved, what is being prepared, and what

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it all means for taxpayers. In this issue, you'll find a clear concise text about debt collection orders and what it means to employ someone with major debts, and our tax advisor's commentary regarding electronic sales records. In order to help you keep your spirits up, we've included some accountant jokes and would like to share some pleasant personal news.

Wishing you a joyful spring and a continuing sunny mood,

Monika Borkovcová

EMPLOYMENT OF PEOPLE WITH MAJOR DEBTS

A collection order placed against an employee also places a significant administrative burden on the employer, particularly if the employee owes money to more than one creditor. Quite complicated calculations must be performed each month in order to determine the amounts that will be garnished from the paycheck.

Most commonly, discussions about collection orders address the position of the debtor. It is, however, quite rare to hear about the demands and risks that collection orders place on the debtor's employer. The employer is obliged to perform complicated calculations to determine the garnishment amount. They also bear the responsibility for any errors that may be made, and which, as we will demonstrate below, are quite easy to make.



If a collection order is placed against an employee or in the event of the court-ordered execution of an order, the employer is notified via a data message and is obliged to perform the following tasks every month.

What is off limits even to debt collectors?

Non-garnishable base amount. This year, it is CZK 6,118 per breadwinner and CZK 1,529.50 per each dependant (spouse and

children, and possibly grandparents, in-laws, and others if they meet the criteria as defined in the law – refer to Table 1). The calculation of the non-garnishable base amount is even more complex in the event that the debt collection involves child support for a dependent child, in which case the base amount per dependant is not included for that child.

This basic non-garnishable base amount is deducted from the net wages and any other income that is handled as wages (sickness pay, wage compensation, on-call bonuses, income from part-time employment, etc.). If the difference exceeds the sum of the subsistence minimum and the normative housing costs per individual (which is CZK 9,177 this year), this difference is divided into thirds.

Sample Calculation of the Non-Garnishable Base Amount

In this case, the employee is a married man, with a non-working wife and two children.

Non-garnishable amount for breadwinner	6,118.00
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Non-garnishable amount for spouse	1,529.50
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Non-garnishable amount for two children	3,059.00
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TOTAL	10,706.50
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Priority of creditors

The first third is used for high-priority receivables, which includes child support, compensation for damage (e.g. for cau-

Employers should not make the situation even more complicated by accepting bilateral agreements made between indebted employees and their creditors.

sing harm to health), and payables due to the state (tax debt, repayment of excess unemployment benefits, etc.). This category of high-priority receivables is broken down even further as follows:

- current child-support payments are covered first;
- followed by any past-due child support;
- and only then the other amounts.

If the first third of the allocated funds is not sufficient to cover all of the high-priority receivables, the second third is used as well.

The second third, or, as applicable, what remains of it after it is used for the high-priority receivables, is used for lower-priority debts, such as bank and non-bank loans. This second third may also be used for deductions agreed between the employee and the employer (e.g. meal vouchers, telephone calls, etc.).

The last third is always paid to the employee.

When an employee files for bankruptcy

The employer acquires the obligations specified above on the date on which they receive the debt collection order or the court-ordered execution of an order. They end at the time that the employment relationship is terminated or when the amount due is repaid in full.

However, there are situations when the long-term indebtedness of an employee leads to insolvency, and consequently either an order of bankruptcy or debt relief. For the employer, this means that at the time the insolvency proceedings are initiated, the amounts are no longer sent to the creditors, but remain in the employer's account. Once the insolvency is effective, the funds are sent to the insolvency administrator, who is responsible for settling the creditors' debts in accordance with the Insolvency Act.

How to avoid even more complications

As you can see, employing someone who has major debts is fairly demanding when it comes to payroll administration. We therefore recommend that employers should not make the situation even more complicated by accepting bilateral agreements made between indebted employees and their creditors. A number of consumer loan providers secure the debt by having the employee sign their consent to a payroll deduction. The employer, however, has the ability to refuse to accept this type of agreement. If the employer does accept it, they then assume all of the obligations associated with the lower-priority debts described above and will not be able to opt out of this situation in the future.

In this respect, the situation today is better than it was under the legal provisions that were in effect until 31 December 2013, when the employer was always obliged to deduct payments based on an agreement between the employee and their creditor. In some companies, these types of deductions are still made on behalf of the employees; however the majority of these agreements will expire in the near future. At least we can see some improvement.

Vladimíra Brožíková



Relevant Legislation

Debt Collection Code, Act No. 20/2001 Coll.

Insolvency Act, Act No. 182/2006 Coll.

New Civil Code, Act No. 89/2012 Coll.

Code of Civil Procedure, Act No. 99/1963 Coll.

CASH REGISTERS AND ELECTRONIC SALES RECORDS

Currently it is hard to find a hotter or more emotionally discussed topic than the plans for introducing Electronic Sales Records (ESR). The draft bill has already gone through the external consultation and is now in the legislative process, at the end of which it will be published in the Collection of Acts and consequently enter into force.

The draft bill specifies an effective date of 1 January 2016 for the new law, but things may turn out differently. Even the Minister of Finance admits that it will be difficult to meet the proposed target date. And of course, all of us who have been monitoring the approval of various pieces of legislation over the past few years find it very easy to translate "is possible" into "is highly unlikely". After all, it is already May and the draft bill has completed only the external consultation process. If we wanted to use sports jargon, we'd say, "The starter's pistol has gone off, the track is long, and the finish line is far in the distance."

Invoice or electronic sales records?

I expect that the majority of you have already heard about the draft legislation to a certain extent, nevertheless I would like to summarise at least the basic points. The implementation of ESR is intended to limit activities in the grey area of the economy and to affect those taxpayers who do not report sales income in compliance with the law.

It should lead to increased tax revenue and even out the market conditions between "honest" and "dishonest" entrepreneurs. That sounds good, at least if you are one of the "honest" entrepreneurs. However, I think that I speak for all of us when I say it's better to wait for the first results. Promising positive effects on paper is one thing; actually achieving them is quite a different matter.

The ESR legislation will affect taxpayers at all levels – both those who pay personal income tax on income from individual business activities (entrepreneurs), as well as those who pay corporate income tax (legal entities). Generally speaking, it should



apply to all types of income (returns). The only exceptions consist of income that is not subject to taxes, income subject to withholding tax, and income other than that from business activities, dividend income, profit shares, etc. The ESR rules will

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however apply only to payments made in cash, and using payment cards, cheques, promissory notes, meal vouchers, etc.

Lobbyists are not losing any time

The introduction of electronic tax records will be gradual. For the first three months following the date when the legislation enters into force, it will apply only to businesses offering accommodation and

meal services. Next in line are wholesale and retail activities, and, only after an additional three months, everyone else who is not exempted from the legislation. The Ministry of Finance will make the final decision about which groups will be exempt from the obligation to maintain electronic sales records and publish an announcement. It may thus be expected that there will be a fierce battle on the part of various lobby groups. Thus far it seems that the lobbyists are doing well, as each time the Ministry makes a statement regarding the topic, the number of entities that will be affected by the electronic sales records has got smaller. It looks as if minor tradesmen will now also be exempt from the new system.

And how will the whole thing work? The entrepreneur who wants to "cash in on" a transaction will send an electronic message to the financial administration (using an electronic cash register, computer, tablet, or smart phone). The server on the financial administration side will send back a confirmation containing a unique code. The entrepreneur will add this unique code to the receipt, which will be printed and given to the customer. The customer will take the receipt (the first drafts of the bill were going to make this mandatory, however, after the consultations, it is now optional) and, should they want to, will be able to check on the financial administration's website whether the transaction was actually registered.

The technological solution that has been chosen requires that the entrepreneur's devices must be able to connect to the internet and allow electronic message exchange. It will, however, be up to the entrepreneur as to which device and software they will use.

Even more bureaucracy, but with some positive aspects

According to the Ministry, the solution is easy and not expensive (most entrepreneurs already own a device that is connected to the internet), and for the "honest" business people, there will be only advantages. This could be taken as an indication that

those who are against the new system are most likely dishonest. However, it includes the large majority of entrepreneurs who are afraid that the new system will lead to additional headaches, costs, and bureaucratic responsibilities. Only time will tell who is right.

What is definitely true is that the effects of the prepared changes will not be only negative. The Ministry of Finance is proposing a one-time tax credit of CZK 5,000 for everyone affected by the electronic sales records system. It will be possible to apply this credit in the tax year during which the entrepreneur first records their sales electronically, and is intended to compensate for any costs that may be incurred in connection with obtaining the required technology. All of the costs associated with the electronic recording of sales will be allowable tax expenses. In addition, accommodation and meal services will fall into the reduced 15% VAT category.

As was mentioned earlier, the system of electronic sales recording should bring in additional tax revenue. According to the Ministry of Finance this increase may be as much as CZK 10 billion. However, we think it is advisable to wait before we start celebrating. Over the past few years there were many changes implemented with the aim of increasing tax revenue and we all remember how it always turned out. However, the experience abroad with a similar approach is more or less all positive. For example, in Slovakia the volume of taxes collected increased by the equivalent of CZK 3 billion during the very first year the electronic sales recording system was in place. Why shouldn't it straight

away be 10 billion in our country? Let's be surprised.

I'd like to close on a somewhat slighter lighter note. On the Financial Administra-

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tion's website, in the FAQ section, you will find the following:

Question/Comment: **"Some restaurant owners are publicly stating that if they start paying taxes, they will go bankrupt."** Just the comment in and of itself is more than amusing. If someone publicly states that they are committing a crime, which tax evasion most definitely is, shouldn't they be punished for it right away?

Reply: **"This is not right, and if they really do go bankrupt, then it's a signal that there is a problem with the system that we must resolve as such and not simply start allowing people to break the law."** And here I was naively thinking that the financial administration is "resolving" issues with tax evaders over the long-term. This makes it look as if they are just now starting to tackle the problem. On the other hand, better late than never.

Martin Pecka



The world has a new Pecka!

Martin Pecka, one of our Senior Consultants and the regular author of the Tax Advisor's Commentary has a second son. Marek Pecka, measuring 50cm and weighing 3.5kg, was born on 11 April shortly after 7:00 am. His father is as proud as can be.

We should like to take this opportunity to say congratulations and remind you of the words from the Book of Books: "As arrows are in the hand of a mighty man; so are the children of the youth. Happy is the man that hath his quiver full of them."

Best wishes to little Marek and his parents!

How do accountants make a bold fashion statement?

They wear black socks rather than light grey ones.

What do you call an accountant without a calculator?

Lonely.

There are three types of accountants:

Those who can count, and those who can't.

What's the difference between death and taxes?

Parliament doesn't meet each year to make death worse.

The Good Estimate

An accountant applies for the position of Chief Financial Officer. There are a number of applicants and, one by one, they are called in for an interview. Finally it's the accountant's turn. The panel ask him many questions. Suddenly, one of them asks "How much is nine times four?" The accountant quickly thinks and answers "35".

When he leaves the room, he checks his answer with his calculator and sees that he made a mistake. It's clear to him that he won't get the job and he sadly goes home.

The next morning the phone rings. It's the head of the selection panel, who's calling to let the accountant know that he got the job. "Wonderful," says the accountant, "But what about my answer to the question about how much is nine times four? My answer was wrong!" "Yes, we know," is the reply, "but out of all of the candidates applying for the job, your answer was the closest."

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