

Dear Clients and Business Partners,

In the March edition Tax News, we will present some news concerning electronic communication between tax entities and financial administration in more detail. This adjustment is a part of the tax rules novel, which passed through the Chamber of Deputies in the third reading on 24 September 2014. Furthermore, we will deal with the novel of the real estate tax act, we will take a look at the current condition of the Ministry of Finance proposal for electronic filing of revenues and we will also mention the focus of tax administration on transfer price inspection.

With best regards

LERIKA Team

## OBLIGATION OF ELECTRONIC COMMUNICATION WITH THE TAX ADMINISTRATOR

Since 1 January 2015, there has been an expansion of the electronic communication obligation with the tax administrator. Submissions exclusively in the electronic form will newly be obligatory for tax entities or their representatives, which have data mailboxes accessible, or entities, which have the legal obligation to have the final accounts verified by an auditor. At the same time, these must be the so-called form submissions - applications for registration, registration data change notices, account reporting, regular and additional tax returns. Thus it will be necessary to submit e.g. the income tax return for 2014 in the electronic form, because these submissions will be made only after the beginning of the effect of the amended act (1 January 2015). However, the question remains, whether in fact an expansion of the sphere of entities, which will be forced to comply with this new obligation, will take place or not.

On one hand, we have the aforementioned condition, however, on the other hand, a minor linguistic modification has occurred in the tax rules where the word "established" has been replaced with the word "accessible". This discreet change has the result that besides the persons, who do not have a data mailbox at all, the obligation of electronic communication will also be avoided by those persons, who do have a data mailbox established, but do not have it activated. Therefore, those who will want to avoid the obligation of electronic communication may have the data mailbox deactivated (applies only provided that data mailbox has originally been established on a voluntary basis). It is enough to just visit any Czech POINT branch. The data mailbox will be made inaccessible on the third working day from the application submission, at the latest. In case the data mailbox has been made inaccessible twice during the past year, it is possible to reactivate it upon the lapse of one year from its last deactivation, at the earliest.

The aforementioned submissions must be sent to the tax administrator in the determined structure and format, namely via a data mailbox or via the Electronic Submissions for Financial Administration application. The submissions via the latter channel will be possible to make either by verifying the identity of the submitter in the same manner, in which he logs into his data mailbox, or the submission will have to be signed by a recognised electronic signature. All these manners are possible. In case of failing to comply with the aforementioned obligatory form of electronic communication, the tax administrator will automatically award a penalty amounting to CZK 2,000.00 for every individual submission. If the tax entity by noncompliance with this obligation severely complicates the tax administration, it may be awarded a penalty up to the amount of CZK 50,000.00.

### In this issue

- Obligation of Electronic Communication with the Tax
- Real estate tax - NEWS
- Electronic filing of revenues
- Transfer pricing

### Tax | Accounting | Payroll

Should you not wish to receive our Tax News, please contact Kateřina Navrátilová via e-mail: [katerina.navratilova@lerika.eu](mailto:katerina.navratilova@lerika.eu) or phone: +420 222 362 678.

For further information please contact the respective LERIKA's specialist.

# REAL ESTATE TAX – NEWS

On 26 January 2015, the president of the republic Milos Zeman signed the novel of Law No. 338/1992 Coll., on real estate tax, which specifies some unclear parts of this law. The actual effect of this novel has been delayed to 1 January 2016 thanks to amendments of the Senate and the Chamber of Deputies. However, there is one exception, which is the provision concerning the penalty for delayed tax assertion to a lower tax, which enters into effect upon the announcement in the Collection of Laws. Let us introduce some specific news now.

- In connection with tax administration, we may mention for example the waiving from the obligation to submit the tax return in cases, where the period, for which the real estate had been exempt from the real estate tax, has already passed.
- Another modification consists for example in the specification of the conditions for using coefficients 1.22 and 1.2 in Sect. 10 par. 3 let. a). The coefficient of 1.22 will only be possible to apply with units located in apartment buildings, parts of which are also shares in the common lands. If these conditions are not met, the coefficient of 1.2 will be used and the land will be taxed within the scope of the land tax.
- A clarification of the situation concerning tax exemption, which is bound to the heating system change, has also occurred. The five-year exempting test will not be used in cases of direct combustion of biomass after the change of the heating system and in situations, where the building or unit, which is centrally heated, is disconnected from the remote heating system.
- Another news apply to taxable buildings and units included in the business property of an entrepreneur. In such a case, they are viewed, for the purposes of the income tax, as buildings mostly designed for enterprise activity. An exemption are buildings of residential houses and buildings, which form their accessories, garages and units consisting mostly of garages, and other taxable units, which do not include other non-residential premises or garage, chamber, or cellar.

In case of any questions, we will be pleased to provide you with our full support.

[petr.hajek@lerika.eu](mailto:petr.hajek@lerika.eu)

# ELECTRONIC FILING OF REVENUES

The plan of the Ministry of Finance to introduce electronic filing of revenues from 1 January 2016 has not been a secret for some time already. Many experts agree that the introduction as of the first of January of the next year is not real, however, the ministry argues with the possibility of introducing at the beginning of any other month, in case the system is not ready on time. Let us take a more in-depth look at this bill, which was supported by the tripartism on 16 March 2015.

The Minister of Finance Andrej Babis expects the law to secure a "just and equal enterprise environment", "removal of the competitive advantage from dishonest entrepreneurs", and "tens of billions of CZKs into the national budget". Individual passages of the law also stem from these goals, focusing on the introduction of a system, which would secure the filing of all revenues. The inspiration has been a similar system working in Croatia.

The Ministry of Finance requires the filing of revenues in cash, revenues accepted via a payment card and via monetary equivalents (goods vouchers, cheques, bills of exchange), which are also subject to the income tax. From 1 January 2016, these revenues should be filed by companies making business in boarding and accommodation services, from April 2016 also retail and wholesale companies, and from July also physical entities, who operate a restaurant, a hotel, or a shop.

According to the statement of Mr Babis dated 12 March 2015, the revenues of minor craftsmen should not be subject to electronic filing even in the future.



A decree will further determine the revenues, which will be excluded from the filing or for which filing in the so-called simplified mode will be permitted. The bill already includes the revenues made by and during 10 days after allocating the tax identification number among the revenues excluded from the filing.

The filing should take place using an online system connected via a cash register to the central register of the Financial Administration, where allocation of the fiscal identification code to the receipt will take place after filing the revenue. The provision that the customer has the obligation to take over this receipt has been relinquished, because its actual generation is more substantial (the customers should be motivated to the takeover only by the considered receipt lottery, currently known in Slovakia). The bill also considers the situations, where an Internet connection is unavailable (temporarily or permanently). In case of temporary incapability to file the revenues for this reason, the payer does not have to state the identification code on the receipt or send the data of the revenue made. However, he must send the data within 48 hours from the making of the revenue, at the latest. If the law is passed, the payers will have the obligation to submit an application for authentication data allocation via a data message already from 1 November 2015 up to the acceptance of the first filed payment. The tax administrator will allocate this data within 24 hours after receiving the application.

According to the current bill, the payer might receive a penalty up to CZK 500,000.00 and also a closure of the premises for a period of two days to two years or a ban of activity for up to two years for a breach of the obligation to send properly and timely the data of the revenue or to issue a receipt.

In connection with the introduction of electronic filing of revenues, the Ministry of Finance considers decreasing the rate of value added tax for restaurant services from the current 21% to 15%. We will inform you on further developments.

## TRANSFER PRICING

At the end of November last year, the financial administration announced increased inspection of transactions between linked entities – so-called transfer prices. In relation to that, it sent the tax payers a questionnaire, the completion of which has been voluntary and from which an overview of the situation of tax entities right concerning the transfer prices has been obtained. The inspections were commenced on the part of the Specialized Financial Authority at the beginning of this year.

The completion of data concerning the transfer prices is now obligatory also in the appendix of the tax return for the income tax of legal entities for 2014, which all entities meeting at least one of the following conditions have the obligation to complete:

- Total assets over CZK 40 million,
- Net turnover over CZK 80 million,
- Average recalculated number of employees over 50,

While a prerequisite is also:

1. Making a transaction with a linked entity with a registered office abroad
2. Stating a tax loss while making transactions with a linked entity (foreign or domestic)
3. Acceptance of an investment incentive in the form of a tax discount while making a transaction with a linked entity (foreign or domestic).

The appendix is completed in relation to all these linked entities.

The inspections are now focused mostly on large tax entities, however, in the following months, commencement of inspections with smaller tax payers will not be an exception, according to the information from the tax administration. Czech Tax Administration develops in compliance with the principle of common prices for transactions between related companies due attention, and if the company underestimates the area of transfer pricing and lacks sufficient documentation group transactions, the resulting tax audit by the tax administrator leads to additional tax, penalties and interest delay.

In this context can Lerika offer to you:

- Preparation and processing of transfer pricing documentation in accordance with the requirements of the Czech legislation, the OECD guidelines for transfer pricing and EU JTPF (Joint Transfer Pricing Forum) recommendations.



- Development of a comparative analysis to verify that the used transfer prices correspond to market.
- We can prepare a request for binding evaluation and discuss it with the tax administrator.

If you have any queries in connection to transfer prices or are unsure about their determination in your company, do not hesitate to contact us. We are able to prepare the data for the determination of the transfer price, utilising the access to the European Amadeus database, which will be acceptable for the tax administrator, and to obtain a binding assessment from the tax administrator.

katerina.navratilova@lerika.eu

### Contacts:

#### Corporate taxation

Ivana Ottová  
+420 277 277 085  
[ivana.ottova@lerika.eu](mailto:ivana.ottova@lerika.eu)

#### VAT and customs

Alena Kučerová  
+420 277 277 084  
[alena.kucerova@lerika.eu](mailto:alena.kucerova@lerika.eu)

#### Personal taxation

Martin Pecka  
+420 277 277 087  
[martin.pecka@lerika.eu](mailto:martin.pecka@lerika.eu)

#### Accounting

Monika Borkovcová  
+420 222 363 073  
[monika.borkovcova@lerika.eu](mailto:monika.borkovcova@lerika.eu)

Even though due care is paid to the preparation of the tax news, please be aware that their contents are only meant to be informative. Therefore, we recommend that any action envisaged on the basis of the tax news be discussed with your counsel prior to implementation.

© 2005 – 2015 LERIKA