

Dear Clients and Business Partners,

We have prepared the summer 2013 issue of our Tax News for you. We believe that the reported pieces of information will be interesting and valuable for you. Should you have any questions, please, do not hesitate to contact us whenever you like.

With best regards

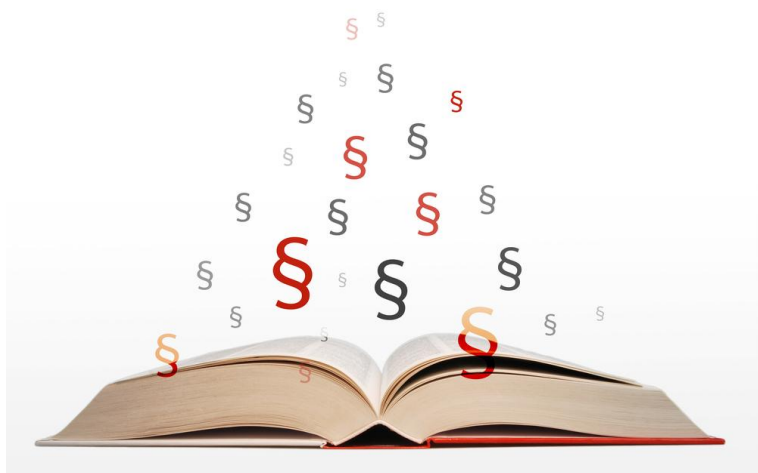
LERIKA Team

## CHANGES IN TAX ACTS – RECODIFICATION OF PRIVATE LAW

The House of Deputies in the third reading has approved a bill related to the recodification of amendments of Tax Acts (Printout 1004) and a new Bill on Acquisition of Real Estates (Printout 1003). They should be passed through the Senate now.

The Printout 1004 brings terminological changes into all Tax Acts, but it contains also a number of substantive changes. As to the most important changes of the Income Taxes Act we should mention the exemption of all profit shares, the integration of inheritance tax and gift tax into the Income Taxes Act or the prolongation of the term for the exemption of incomes of natural persons from the sale of securities from six months to three years.

As for the VAT, we would like to especially mention the change of the exemption at the supply of a plot of land. The plot of land, where a building is located, will newly follow a fate of the building i.e. the term of five years which elapsed from a time point when the occupancy permit was issued will be binding also for this plot and within this 5-year term the supply of the plot will be mandatorily subject to the VAT.



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Having elapsed five years from the time of issuing the occupancy permit, the exemption is allowed to be applied (the same as for the building) unless the supplier utilizes a chance to impose the tax on the plot.

The Bill on Acquisition of Real Estates (Printout 1003) brings especially the following changes:

- The transferee, not transferor will be the tax payer at the transfer against payment;
- The exemption of insertion of real estate into the registered capital of business companies and co-operatives is abolished;
- The acquisition value net of allowable expenses will be regarded as a tax base. However, the way of determination of acquisition price is being changed in order to reduce the number of situations when the expert's assessment is necessary.

We would like to keep you informed about the actual situation and its changes also in the future.

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## INTERPRETATION NAC I26 – DISCOUNTS ON ACQUISITION PRICE OF LONG-TERM TANGIBLE ASSETS

### ***Discounts on acquisition price***

The National Accounting Council has issued the Interpretation No.I26 where it treats the discounts on acquisition price of long-term tangible assets which were provided in the accounting periods following that when these assets were brought into use.

Providing the discount by the supplier in some of consecutive periods following the period when the fixed assets were brought into use belongs among typical cases of subsequent change of acquisition price of the fixed assets. However, the discount on the price should be accounted for against an item to which it materially relates. In the absence of other reasons, it is considered that the discount is associated with the fixed asset itself and should be accounted for against the acquisition price of that fixed asset (e.g. the discount because of late bringing that fixed asset into operation).

Nevertheless, there may be situations in real life, where the subsequent discount on the price of the fixed asset, which is provided, relates to the costs that were stated in the profit and loss account (e.g. discount as compensation of losses because of non-functioning property caused by the supplier). In this case the entity may come to the conclusion that the relation between the discount and cost is so evident that because of fair view it is preferable to post it to P&L accounts.

The Interpretation further tackles the issue, whether in the case of accounting for the discount as a reduction of the acquisition price of the fixed asset, the accumulated depreciation accounted for so far should be adjusted or not. If there is not a mistake in the accounting of previous accounting periods and the entity was allowed to apply the discount first in the current period, the National Accounting Council recommends not changing the value of accumulated depreciation collected so far but in relation to the change of the net value of fixed asset revaluating only the future depreciation.

In any case, it is appropriate that the entity describes its accounting methodology used at taking into account the discount price of the fixed assets in the notes to the financial statements.

The whole text of the NAC Interpretation can be found in the following website: <http://www.nur.cz/content/view/302/40/>

### ***Consecutive grant on long-term property***

Following that interpretation we would like to mention the proposed NAC interpretation No. NI-43, which deals with the subsequent acquisition of grants for fixed assets. Although the final version of the proposal has not yet been approved and issued, it is a relatively frequent issue addressed in the course of the acquisition of property and we would like you to get at least briefly acquainted with the wording.

Draft NI-43 addresses the situation where the entity had applied for, but before the inclusion of assets in use did not recognize the unquestionable right to the grant and did not reduce the acquisition price of this property.

If the entity cannot demonstrate that it did not have the undisputed claim to the grant at the time of acquisition of the assets including its inclusion in the use, the non-declaration of receivable related to the grant is wrong and should be corrected in the old accounting year. The correction is recognized in the current period as a reduction of the acquisition value of fixed assets (by the amount of the grant), reduction of accumulated depreciation and an increase in retained earnings of prior years. Last year must be also corrected in tax by filing the additional tax return.

If the entity proves that because of the information available in the year of acquisition of property it could not be assumed that the grant would almost certainly be received, getting it in the following period is considered a change in the estimate. This is not a mistake and the receipt of the grant and its clearing through the reduction of the acquisition value of assets are accounted for as transactions of the current year and the additional tax return is not filed. In the accounting books it is still depreciated from the reduced acquisition value (the originally recorded depreciation is not changed) and for the tax depreciation, it is a "reduced entry price" for reasons other than technical improvement.

About the approval of the above draft of interpretation or about any change we are going to inform you.  
The full text of the draft of NAC interpretation you will find, if you visit the following link:  
<http://www.nur.cz/content/category/8/14/41/>

In case of any questions to the above topic, please, do not hesitate to contact us whenever.

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## COSTS ASSOCIATED WITH OBTAINING CAPITAL EXPENDITURE GRANTS

Once again we return to the capital expenditure grants and their impact on the initial cost of long-term fixed assets, this time from the perspective of the costs incurred by the taxpayer to obtain a capital expenditure grant. This issue was dealt with by the Coordinating Committee of the Chamber of Tax Advisors and the General Finance Directorate.

The aim of the Coordination Committee was to specify how in terms of accounting (and subsequent in terms of tax) to deal with the costs associated with obtaining capital expenditure grants (i.e. grants for the acquisition of new fixed assets). Most of these are external costs from specialized companies that focus on this area and for their services they billed fee for obtaining grants. In some cases the fees are charged, even if the grant is not obtained.

These costs are not explicitly mentioned in the example list of costs that are included in the capital expenditure evaluation (Section 47, Paragraph 1 of the Decree 500/2002 Coll.) nor in an exemplary list of costs that are not included in the evaluation of new capital investment (Section 47, Paragraph 2 of the Decree 500/2002 Coll.).

These costs relate to their grant itself and not to the acquired fixed assets. Therefore, it is not an expense related to the acquisition of fixed assets and should be included in operating expenses.

Due to the fact that currently neither the Accounting Act nor Implementing Decree have expressly addressed this type of costs, it should not be either questioned the procedure when the costs are capitalized in the entry price of the fixed assets. It is at the discretion of the taxpayer and its internal regulations.

In terms of taxes the chosen accounting treatment should be fully tax-relevant. This means that if an entity determines that the stated costs will increase the initial cost of the capital expenditure, this increase in the acquisition price will be fully tax-relevant. If the stated increase of the capital expenditure is expensed as costs, these costs will be fully tax deductible. This is applicable even if the grant is not obtained.

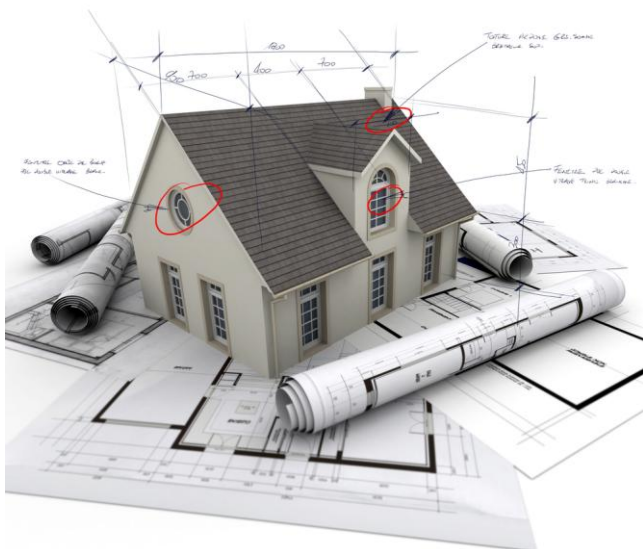
The staff of the General Finance Directorate agreed with those solutions.

In case of any questions to the above topic, please, do not hesitate to contact us whenever.

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## REPAIRS MADE WITHIN THE FRAME OF CAPITAL EXPENDITURE

Finally, within our "FA" tax news we would like to draw your attention to the ruling of the Supreme Administrative Court, which ruled again (the SAC Ref. 8 Afs 65/2012 - 41 and 8 Afs 66/2012 - 29), how it is necessary to look at the cost of repairs incurred in connection



with the capital expenditure activities.

The taxpayer rebuilt the building that originally served as a shop, to the allergy clinic and doctor's office. The work done on the building had character of technical improvements (e.g. walls and partitions were moved, a size and number of windows changed, etc.). As a part of this capital expenditure project also the roof of the building was repaired and the incurred expenses were included in operating costs of the taxpayer.

The Supreme Administrative Court stated that if any building alterations were made in the frame of the same building reconstruction (i.e. the work, which forms in terms of the material and time scale as well as in terms of its purpose, one whole) with the aim of modifying the technical parameters and use of the property, it is not necessary to examine the nature of each individual building sub-alteration, i.e. whether any partial construction activity could be regarded as a repair.

The taxpayer should have demonstrated that the roof repair was not associated with other work carried out, which had the character of technical improvements. The taxpayer, however, this fact has not proved.

Should you be more interested in the above information, please, do not hesitate to contact the author of the article.

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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.

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