

Dear Clients and Business Partners,

in the February issue of Tax News, we will focus on several interesting topics. First of all, we will take a look at news in the area of VAT control statement, then follow with current state of Law on Electronic Records of Sales and the last topic to cover will be the current situation regarding applicability of tax credit for 2<sup>nd</sup> and 3<sup>rd</sup> child.

With best regards

LERIKA Team

## VAT CONTROL STATEMENT – CURRENT NEWS

In the current Tax News edition we are going to consider a couple of news items relating to the VAT control statement. On 13 January 2016, the government endorsed a VAT amendment that mitigates some of the stringent provisions of the current law. Legal effectiveness of the amendment is scheduled for June 2016. Which specific items are to be expected by the tax payers submitting a VAT control statement? The following summary lists the most critical ones.

- In the past, the penalty regime upon non-compliance with VAT control statement submission was heavily criticized. The penalties were generally considered to be too high and fixed amounts were not deemed to be adequate. Originally, the tax inspector could impose a fixed penalty of CZK 10,000, CZK 30,000 or CZK 50,000 upon the tax payer's non-compliance with a specific request to submit the VAT control statement. In contrast, the amendment will enable the tax inspector to waive the penalties if there is a justifiable reason. The tax payer will have to pay a duty of CZK 1,000 when filing the waiver request. The waiver requests can only be submitted to the Tax authorities after the enactment of the amendment; however, the waiver request can cover a tax period preceding the amendment's legal effectiveness (i.e. period from 1 January – 31 May 2016). However, tax payers that gravely infringed on the tax or accounting regulations in the last three years will not be allowed to file a waiver request.
- Another hot topic was a penalty of CZK 1,000 that is imposed automatically upon the late filing of the control statement. Tax professionals criticized this regulation as being too harsh. This is why the amendment introduces some forms of relief against the basic penalty. The penalty of CZK 1,000 imposed in connection with a control statement for a period prior to the effectiveness of the amendment shall be waived automatically. In other words, all the penalties imposed in the period prior to the effectiveness of the new law will be waived automatically through the working of the new law. The government already approved this amendment; however, it has yet to pass through the Parliament, the Senate and be signed off by the President Miloš Zeman. This is why the tax payers should remain cautious and not yet rely on the relief being implemented. The general recommendation is to file the control statement on time i.e. 25 days after the end of the calendar month for all legal entities or within the filing deadline provided for individuals. There is one more positive effect in the new amendment in relation with the basic penalty. As of the legal effect of the law on 1 June 2016, the basic penalty will be waived automatically once a year in cases where the tax payer rectifies the error before being requested to do so by the tax inspector.

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- Last but not least, the amendment also deals with the setting of deadlines. Specifically, the deadline for filing a subsequent control statement based on a tax inspector's request pursuant to Article 101g Section 3 shall be extended. The original term of 5 calendar days is henceforth extended to 5 business days. This will surely make tax payers happy. A tax payer without a data box will have 7 days to react. Notwithstanding the extension of the deadline, in our view the term to respond to the Tax authorities in timely and adequate manner is still quite short.

As you can see, the amendment provides a couple of positive developments for tax payers in the 2016 tax year. The amendment reflects observations by the Chamber of Tax Advisors which suggested, among other things, to implement a testing period for the filing of the control statement that would enable the use of tax or penalty waiver regimes. Waivers of CZK 1,000 penalties and extension of deadlines to file a subsequent control statement based on a tax inspector's request will surely be appreciated by the tax payers; however, the main focus of criticism of the original law i.e. a highly stringent character of the penalty regime as such, remains as yet largely unchanged.

We will keep you posted about any further developments.

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## E-TRŽBY APPROVED BY THE PARLIAMENT

After several months of lively debates in the Parliament, the Law on Electronic Records of Sales (called e-tržby in Czech) was approved by the Parliament on 10 February 2016 within the third reading. Let us consider in which form the Senate and the President are expected to endorse the law.

The most important issues are: who is affected by the law, which transactions are covered, since when shall the new law be applicable and how to be compliant.

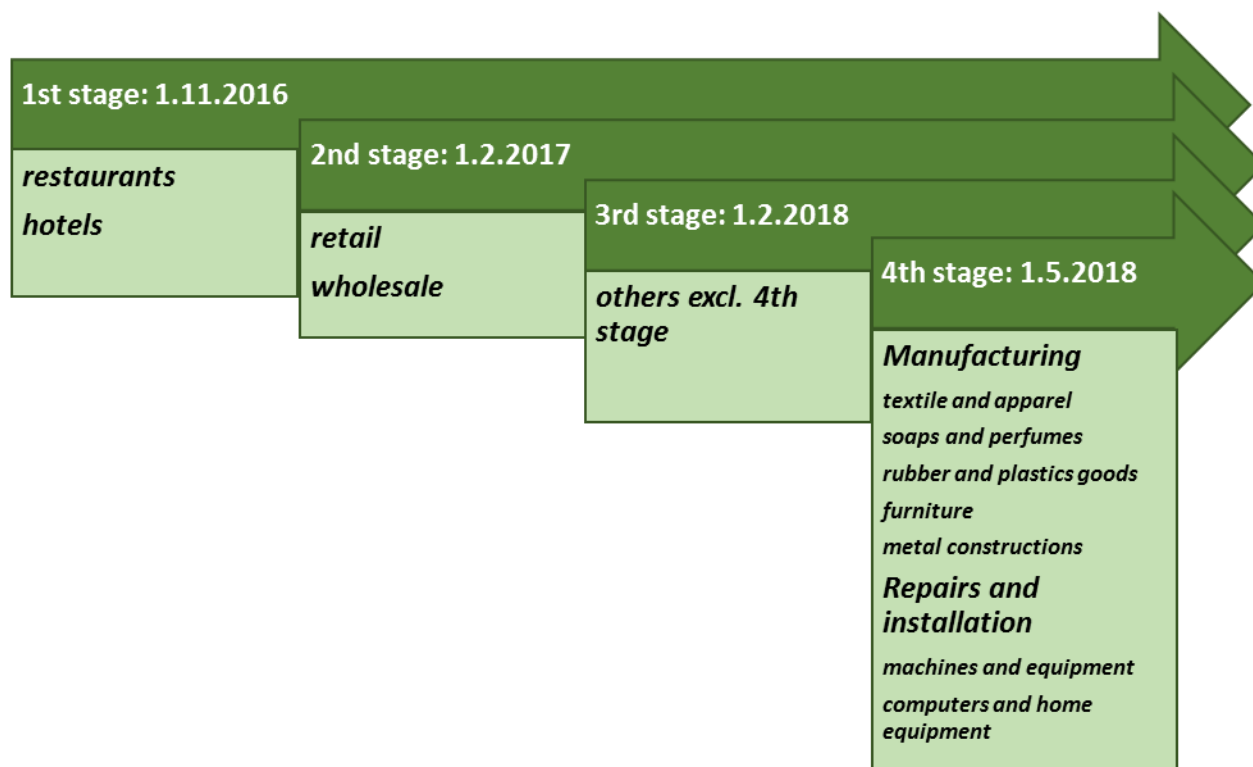
### *Scope of electronic records of sales – sales subject to records*

Sales to be recorded are any sales that are subject to income tax, whether received in cash, through a cashless transfer (e.g. through a credit card payment), through a check, promissory note or any other cash equivalent (meal vouchers, gift vouchers, bitcoins). Individuals are thus required to keep records of all payments that represent income from business pursuant to Article 7 of Income Taxes Act. Similarly, legal entities are required to keep records of income from activities representing pursuit of business as defined by the Income Taxes Act (commentary to the provisions on recorded sales covers items such as tips and considers them from two different angles – either as income of an employee taxed as such or income of a restaurant owner that “should be properly recorded and taxed”).

Records shall exclude one-off sales, sales of specific entities (state, banks, insurance or pension insurance companies), proceeds from provision of school lodging and meals, sales within public transport or sales of goods or services performed via a sales machine. Sales performed prior to issuance of a tax identification number and within 10 days following its issuance shall be excluded as well.

### *Entities in scope and legal effectiveness*

The type of business of a tax payer is closely related to legal effectiveness of the law on electronic records of sales. The period between the promulgation of the law in the Collection of Laws and its legal effectiveness was shifted from the original three to seven months. If the law is promulgated in the Collection of Laws by the end of March, restaurants and hotels will be required to start recording sales as of 1 November 2016. The next steps are illustrated in the chart below.



#### Cash register and authentication

In order to successfully register a received payment, the tax payer will be required to have data connection and a device that will enable him or her, via the applicable software, to record the sale and connect to the Tax authorities' server. When the sale is registered, a unique code will be generated and the device will be capable of printing a receipt with the code, sending the information to the Tax authorities.

The tax payer will have to go through an authentication process based on which the tax payer will obtain data necessary to link a specific tax payer to the recorded sales. A request for authentication data can be requested via data box or in person at the Tax authorities' office starting on the 15th day following the promulgation of the law in the Collection of Laws.

#### Simplified regime

If a tax payer considers that recording of sales in the manner described above would compromise or significantly impair his or her ability to pursue business in a smooth and efficient manner, the tax payer can file a request for permission to record sales under a simplified regime. The tax payer has to state appropriate reasons and sales that the simplified regime should cover. The tax inspector shall decide on the application within 15 days after filing the request. The benefits of the simplified regime mainly include the possibility to send data on sales within 5 days after making the sale (instead of immediate recording) which entails that the receipt does not have to include a fiscal identification code. The simplified regime is thus likely to be used by tax payers carrying on business in areas with no or very bad data connection coverage.

#### Complementary law

Together with the Law on Electronic Records of Sales, the Parliament also endorsed a complementary law changing VAT rates and the individual tax credit for personal income tax purposes. A reduction in VAT rate from 21% to 15% shall apply to restaurants (including sales of non-alcoholic drinks) and follows legal effectiveness of the Law on Electronic Records of Sales for the restaurants. As regards the tax credit for personal income tax purposes, the complementary law provides for a one-off CZK 5,000 tax credit for tax payers that started recording sales in the given year.

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# INCOME TAXES ACT AMENDMENT – TAX CREDIT FOR 2ND AND 3RD CHILD

An increase in tax credits for a second child and upwards were envisaged for 2016. Now, on 2 March passed the amendment through the Parliament. If the law is promulgated in the Collection of Laws by the end of March, the legal effectiveness of the amendment will be as of 1 April 2016.

The tax credit for the second child will be increased by CZK 100 and by CZK 300 for every other child. Tax credit for the first child remains the same. The following summary provides a comparison of rules for 2015 and 2016.

2015			2016			
	Total per month	Total per year	Monthly increase	Annual increase	Total per month	Total per year
<b>1<sup>st</sup> child</b>	1 117	13 404	0	0	1 117	13 404
<b>2<sup>nd</sup> child</b>	1 317	15 804	100	1 200	1 417	17 004
<b>from 3<sup>rd</sup> child</b>	1 417	17 004	300	3 600	1 717	20 604

It will be possible to apply an increase in tax credit for children only as of the month when the amendment becomes legally effective. However, transitional provisions are likely to be adopted that will enable the use of the tax credit retroactively for the whole year of 2016 through the annual payroll settlement or via tax return.

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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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