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TAX NEWS

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Dear clients and business partners,

In the holiday issue of Tax News we are going to inform you about latest news taking effect in the middle of holiday. The main news relate to VAT control statement, future changes in local competence of the Tax authority and real estate transfer tax amendment. In the last topic we are going to present possibly economic impacts of Brexit.

With best regards

LERIKA Team

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RECENTLY PUBLISHED TAX LAW AMENDMENTS

We would like to inform you about the current legislative status of the tax law amendments that we had already covered in previous issues of our Tax News. The below stated changes are part of the law package proposed by the government in connection with the adoption of the new customs law. The customs law amendment, together with other law amendments, was published in the Collection of Laws on 29 July 2016, taking effect on the same day.

VAT law amendment – control statement

As expected, the VAT law has been amended in relation to the adoption of the control statement. In all cases, the amendment represents mitigation of the existing rules. As we already covered in our February issue of Tax News, deadline for the taxpayer to react to a request of the tax administrator to clarify certain facts has been extended from five calendar days to five business days since reception of the request. Newly, days of weekend or national holidays will not count for the purpose of the deadline. For taxpayers with a data box, the deadline shall extend by up to 10 days when the request is deemed to have been delivered, unless the taxpayer already accessed the data box earlier.

Tax I Accounting I Payroll

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There have also been changes to fine for non-filing or late filing of the control statement. A fine of CZK 1,000 assessed upon late filing of the control statement shall be waived in case the taxpayer files the control statement before being requested to do so by the tax administrator. The qualifying condition is that the taxpayer has filed all the other control statements in the given year in a timely manner. In addition, based on a transitional provision, any delays in filing that occurred prior to the legal effect of the amendment (i.e. delays in filing control statements for months from January till June and the 2nd quarter of 2016 respectively) shall be disregarded for the purpose of considering the waiver condition. As the waiver of the fine shall be processed automatically upon fulfilment of qualifying conditions, the taxpayer will not have to request the waiver.

New provision of Article 101k of the law deals with waiver of fines of CZK 10,000, 30,000 and 50,000 respectively. Based on Article 101h of the law, the fines are assessed in cases when the taxpayer files a control statement in a substitute deadline stated in a request issued by the tax administrator (or after this deadline, or not at all) or in cases when the taxpayer is late in reacting to a request of the tax administrator to make a change, clarify or confirm facts stated in the control statement. The fine can be waived to the taxpayer if he or she states a justifiable reason for the delay and, at the same time, did not breach tax or accounting regulations in a serious manner in the last three years. The tax administrator can waive the fine in its entirety or partly. The waiver request can be filed within 3 months of legal effect of the fine assessment notice and costs CZK 1,000.

Amendment of the Law on Tax Administration of the Czech Republic - state-wide competence

One of the features of the approved package of laws is an amendment to the Law on Tax Administration of the Czech Republic which elevates local competence of tax authorities to the state level. The elevated state-level competence is for the purpose of search activities, investigations, tax audits or other procedures forming part of tax administration. We already informed you about the implications of this amendment in the May issue of our Tax News.

Change in local competence of non-residents taxpayers

As a result of capacity constraints on the part of tax authorities, there will be a change in the local competence of taxpayers without seat or establishment in the Czech Republic i.e. non-resident entities or individuals that are registered to VAT in the Czech Republic. The Tax authority for Prague that has been competent in these cases so far shall henceforth be replaced by the Tax authority for Moravia-Silesia region.

This amendment enters into force as of 1 September 2016; however, a transitional provision in the Tax Code stipulates that the change in the local competence only takes place on the day stated by the Tax authority for Prague in a decision which shall be issued within 12 months of the date of legal effectiveness of the amendment.

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REAL ESTATE TRANSFER TAX AMENDMENT

On 5 August 2016, an amendment was published in the Collection of Laws which changes the legal measure issued by the Senate on real estate transfer tax. It was endorsed that the payer of tax shall automatically by the buyer, not the seller, as per the practice so far. In addition, the seller shall not guarantee the tax payment. Despite the proposed amendments the aim of which was to reduce the tax rate, the current rate of 4% remains in effect. The amendment takes effect on 1 November 2016. The decisive date for the applicability of the new law shall be the delivery of a proposal on a new entry to the real estate cadaster. If the proposal on a new entry is delivered prior to 1 November 2016, the real estate transfer shall be taxed based on the existing rules.

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„BREXIT“

One of the undisputable hot topics of the last couple of months is the so-called Brexit. By now, it is widely known that on 23 June 2016, the citizens of the UK approved, via referendum, the exit of their country from EU. However, to make this actually happen, many legal and technical steps will have to be taken. If the Great Britain proceeds with its intention to leave EU, in accordance with the EU Treaty, the British government has to formally serve a notification first. Subsequently, new rules and conditions governing EU's further relations with the Great Britain outside the framework of the EU law will have to be worked out. This begs a question to what extent Brexit will adversely impact individual European economies as well as lives of common people in the Great Britain and EU.

One of the possible scenarios to mitigate negative impacts of Brexit on finance markets is reduction of corporate tax. Based on a statement by George Osborne, the British finance minister, corporate tax could be reduced from the current 20% down to below 15%. Depending on the extent of the reduction, the Great Britain could become a sort of tax haven after its exit from EU. If the country proceeds according to plan, it would become one of the countries with the lowest corporate tax rate in the world. It would very likely attract new investors and cause the existing ones to remain. On the other hand, Brexit represents an opportunity for countries such as France and Germany that consider the UK's exit from EU as an opportunity to provide the best possible conditions for inbound expats from abroad. It remains to be seen whether the statements by politicians will carry through into actual actions or not. In the last couple of years, the European political landscape has been more promises than acts.

Now, it is already clear that if Brexit occurs it will have impact on many areas including taxes. Treaties between EU and the Great Britain will be critical. If the two partners cannot find common ground, the Great Britain could get the status of just another third country with all its implications. To give an example, Czech citizens buying goods from an e-shop in the Great Britain could be subject to VAT and customs. So far, these situations have been subject to the standard EU regulations when the end customer does not have to pay VAT or custom duties and the latter two are paid by the seller. If the Great Britain were newly treated as a third country, the citizens would be liable to pay VAT from an amount exceeding EUR 22 and custom duties from an amount exceeding EUR 150 respectively.

Within EU, there are also common rules e.g. on a two-year warranty period, warranty procedures or return of goods within 14 days without stating a reason. If the Great Britain actually exited form EU without negotiating that the current rules be further observed, goods from the Great Britain would be seriously disadvantaged compared to goods from EU. Tax impact can be even more significant in view of EU's strong push towards harmonization of rules. European tax regulations are already harmonized on many levels, including common system of taxation of parent and subsidiary companies, tax neutrality of cross-border business restructuring or the domain of VAT and customs. In addition to tax rules, matters such as social security are harmonized as well. As regards this point, it will be critical how the new rules between the Great Britain and EU will be provided for post-exit. However, if Brexit does occur, close interaction of the new sets of rules is likely to preserved.

There are various future scenarios regarding future interaction of the Great Britain and EU. The most radical scenario is complete independence for the Great Britain in its status as a member of World Trade Organization. This scenario would bring benefits in terms of independence from EU; however, the downside would be considerable economic isolation. The second possible scenario is formal exit of the Great Britain from EU combined with continued close cooperation in the existing economic areas. Free market principles with EU would thus be upheld. This scenario would minimize economic costs for both sides. It is very likely that under this scenario the Great Britain would continue to contribute heavily into EU budget without, however, the right of vote within EU. The Great Britain would thus remain a close partner of EU. It is still uncertain though whether Brexit will eventually occur. The results of the referendum are not, in themselves, binding. Given that David Cameron, the British prime minister, resigned, the fate of Brexit will be in the hands of Theresa May and subject to the approval by the House of Parliament.

Implementation of Brexit is going to be a long journey. We will surely cover this topic again in one of the next issues of Tax News. However, the conclusion of this affair is still a way off.

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