

Dear clients and business partners,

In the last couple of days, we have borne witness to quite a few political dramas. The planned changes and news in the taxation area are not quite that revolutionary nor are they negligible. Let us inform you not only about the current state of the tax packages for years 2017 and 2018 respectively, but also about the fate of the VAT Control Statement as of 1 January 2018, a new approach of tax authorities to exemption of apartment units in family houses and a new payment in the system of sickness insurance.

We trust that the stated information will be interesting to you. In case of any questions, please do not hesitate to contact us at any time.

With best regards,

LERIKA Team

2017 TAX PACKAGE

The tax package that we informed you about in the January issue of the tax news has been subject to an uneasy endorsement process that has not come to its end yet. Although it was signed by the President on 28 April 2017 already, it has not yet been promulgated in the Collection of Laws and so has not come into effect. The planned effective date was set for 1 April 2017, this date was also stated in the law proposal. Based on the current law, the tax package will thus become effective on the 15th day after its publication in the Collection of Laws. For quarterly VAT payers, it is desirable that the effective date is not later than 16 June 2017 so that the changes become effective as of 1 July 2017.

During the course of the endorsement process the Parliament rejected changes proposed by the Senate the purpose of which was to narrow down the definition of land destined for construction, which would extend the scope of VAT exemption of land (or its surroundings) that is subject to construction works. In addition, it also rejected extension of VAT exemption of land forming one functional unit with a building (without containing a building itself).

The tax package was thus approved in the wording submitted by the Parliament, introducing changes for both 2017 and 2018 tax years. We provide a summary of the main changes below.



Tax year 2017

With retroactive effect for the whole of 2017, the Income Taxes Act amendment has introduced an increase of the tax bonus for the second, third and any other child. This increase shall be effective when calculating payroll tax advances since the law's effectiveness and retroactively for the whole of 2017 when making the payroll tax settlement in the tax return.

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Tax | Accounting | Payroll

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The year-on-year comparison of tax bonus amounts is provided in the following table (in CZK):

	2016		2017		2016 / 2017	
	Total per month	Total per year	Total per month	Total per year	Monthly increase	Annual increase
1st child	1 117	13 404	1 117	13 404	0	0
2nd child	1 417	17 004	1 617	19 404	200	2 400
3rd and any other child	1 717	20 604	2 017	24 204	300	3 600

Another important change for the 2017 tax year is the lifting of bans to apply the tax credit for a spouse without income and tax credit for children for self-employed individuals claiming lump-sum expenses whose taxable income from business does not exceed 50% of the total taxable income (the current law as per Article 35ca of Income Taxes Act). The qualifying condition is that the taxpayer uses the limitation on lump-sum expenses which we further detail below.

Tax year 2018

The most significant and the most discussed change for 2018 is the limitation of maximum personal income tax lump-sum expenses. Although the existing lump-sum percentages remain in place, the absolute limit on lump-sums have been put in place.

It will be possible to claim lump-sum expenses up to the following limits in 2018:

- Maximum lump-sum for income from agricultural production, forest and water management amounts to CZK 800,000
- Maximum lump-sum for income from self-employment is CZK 600,000
- Maximum lump-sum for income from lease of business assets is CZK 300,000
- For all other business pursuits, the maximum lump-sum is CZK 400,000.

We will inform you about any other changes as regards the fate of the tax package.

VAT CONTROL STATEMENT SINCE 1 JANUARY 2018

VAT Control Statement, which has been in place since 1 January 2016, has already been subject to numerous changes. Another important change is in store if the government does not manage to react to the decision of the Constitutional Court from December 2016. Given the ongoing governmental crisis and the change at the post of the Finance Minister, we would like to inform you about the current situation.

The decision of the Constitutional Court from 6 December 2016 was a reaction to a proposal of a group of 21 members of the Senate (further “applicants”) on abolition of specific provisions of the VAT Act relating to the VAT Control Statement. Some of the proposals were granted by the government even before the Constitutional Court passed its decision, others took effect upon the decision being promulgated in the Collection of Laws and one of the points was set to be resolved by 31 December 2017. The last point concerns the controversial provision of Article 101d Section 1 of the VAT Act which stipulates that in the VAT Control Statement the taxpayer is obliged to state information which is required for tax administration.



The applicants challenged this provision arguing that the scope of information that should be provided must be stated directly in the law and that is contrary to the privacy laws for such information to be required by mere forms issued by tax authorities that can be modified by government at will. Another argument was that the Charter of Rights and Freedoms states that taxes can only be imposed by

means of laws. The lawgiver is thus obliged to provide for all important tax matters including those relating to tax administration and control directly in the law.

The Constitutional Court agreed with the applicants and decided that “the law must at least specify the scope of information that the taxpayer is obliged to provide”. The Ministry of Finance is not thereby precluded from requesting specific information but it must be done through a law, not just through a form.

The Parliament’s Budgetary Committee reacted to the Constitutional Court’s decision as late as 17 May 2017 by including the relevant legislative change in the Parliamentary Bulletin no. 1060/1, effectively as an annex to the governmental proposal of an amendment to the law on payments. The new wording of Article 101d Section 1 of the VAT Act should fully lay out the requested identification and contact details of the taxpayer relating to supplies, payments and input VAT deductions and identification details of customers or vendors.

Although the governmental crisis has subsided, if for any other reason the stated legislative change is not enacted, we could theoretically face a situation as of 1 January 2018 that the VAT Control Statement will find itself outside the legal constitutional framework.

A question remains how the tax administration will cope with the situation and what it will practically mean for tax administration or the VAT Control Statement itself.

REAL ESTATE TRANSFER TAX ISSUES RELATING TO APARTMENT UNITS IN FAMILY HOUSES

In the last couple of days, the tax practice has brought a new interpretation of exemption of apartment units in family houses from real estate transfer tax.

The Legislative Measure on real estate transfer tax exempts from tax buildings for the period of 5 years since the final approval. This applies when the building in question is either an apartment in a residential building or a family house. However, the lawgiver did not cover those situations when a taxpayer acquires an apartment unit in a family house and there is no explicit exemption from tax for such transfers in Article 7 of the Legislative Measure. There was subsequently confusion among some tax administrators who not only confirmed the exemption to various taxpayers upon inquiry, but also accepted tax returns claiming the tax exemption.

Now the taxpayers can thus face a situation that they will belatedly receive a tax assessment notice, which can be for a substantial amount given the 4% tax rate, and they could also face late payment interest. For completeness – until 31 October 2016 (before the effectiveness of the Legislative Measure on real estate transfer tax) the real estate transfer tax payer was the property seller unless the seller and buyer mutually agreed on the contrary. This means that if you acquired an apartment unit in a family house with effectiveness in the real estate cadastre prior to 1 November 2016 and you were not listed in the agreement as the taxpayer, you will not be liable to any real estate transfer tax and the tax will be assessed to the seller. Since 1 November 2016, the sole taxpayer is the buyer.

At the end of April, the tax administration issued a notice regarding the possibility of claiming late payment interest waiver. The notice states that the taxpayer is entitled to a late payment interest waiver of 100% if the tax administrator previously accepted an incorrectly applied exemption in a real estate transfer tax return. This only applies to late payment interest that has accrued since 1 January 2015 and under assumption that all other conditions for a waiver are fulfilled (i.e. no significant infractions against tax and accounting regulations as defined by the tax administration). The waiver can be requested through an application that is subject to a CZK 1,000 stamp duty.



The tax administration acknowledges that more than 25% of tax returns have been assessed incorrectly and in most cases, there has been a long period of time between the incorrectly applied tax exemption and the tax assessment, which it considers a valid reason for the late payment interest waiver.

PAYMENTS TO FATHER FOR POST-NATAL CARE

An amendment of the law on health insurance has been published in the Collection of Laws. The amendment introduces one week worth of paid vacation for new fathers immediately after their child is born. The law effectiveness is set for 1 February 2018 and the benefits provided for by the law can be claimed also by fathers whose child was born up to 6 weeks prior to the law effectiveness i.e. 21 December 2017. The amount of the payment will be the same as the maternity payment i.e. 70% of the daily assessment base and will be claimable by the father who is stated in the citizen register of the given municipality and who participates in the sickness insurance scheme either as an employee or as an entrepreneur.

We will be happy to support you should you have any questions to any of the information contained in the above articles.

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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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