



**INTEGRATED LEGAL, TAX
AND AUDITING SERVICES**

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ELECTRONIC RECORDS OF SALES

As a result of the Financial Administration's efforts to curb tax evasion, the Act on Electronic Records of Sales (Act. No. 112/2016 Sb.) was introduced and published in the Collection of Laws on 13 April 2016.

Basic principles of the electronic records of sales (EET)

The basic principle of EET is that all sales will be recorded online and that for each transaction, tax payers will have to issue and hand to their customers a receipt with a unique code provided by the Financial Administration. The taxpayer will have to report each sale by a data message sent to the information system run by the Financial Administration. The system will then automatically generate a confirmation that the data message has been delivered and send the confirmation to the taxpayer; the confir-

mation will include a unique code generated by the system (a "fiscal identification code"), which the taxpayer has to state on the receipt issued for the respective transaction. The receipt with the code will then be handed to the customer and the customer may verify that the payment has been recorded on a web application run by the Financial Administration.

In order to report sales, each taxpayer will have to have a device that is able to communicate online (PC, tablet, mobile phone or counter) and be connected to the internet when carrying out the transaction. Taxpayers will also have to display at a visible place in their establishments and on their websites that they are obliged to record sales and issue receipts to their customers.

Recorded Sales

Taxpayers will have to ascertain whether the obligation to record sales applies to them or not, i.e. whether they receive "recorded payments". Recorded payments are payments made to both individual and corporate taxpayers, which meet certain formal requirements prescribed by the law and at the same time qualify as income from business activities.

The above formal requirements are met if payments are made in cash, by card, by a promissory note or a check or other similar means (such as by voucher, gift card, coupon, etc.) Wire transfers, direct debiting, etc. do not qualify as recorded payments.

As stated above, only payments made to entrepreneurs for their business activities qualify as recorded payments. Payments made

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to employees, lessors, etc. do not qualify as recorded payments.

If both of the above conditions are met, taxpayers are obliged to record the payment, regardless of its amount.

When to start recording sales

In order to facilitate the introduction of the EET, the Ministry of Finance developed a schedule divided into four phases, which should allow for the system to be tested and the parties to have enough time to prepare for this new obligation.

- ▶ Phase 1 starts on 1 December 2016 and applies to hospitality and catering services.
- ▶ Phase 2 starts on 1 March 2017 and applies to retail and wholesale.

- ▶ Phase 3 starts on 1 March 2018 and applies to all other activities with the exception of activities defined below under phase 4.

- ▶ Phase 4 starts on 1 June 2018 and applies to selected crafts and manufacturing activities, such as manufacturing furniture and clothes, plastic and rubber products and toys.

Taxpayers should bear in mind that before accepting their first recorded payment, they have to request access data, register their establishments (whether brick and mortar, online or mobile) and generate identification certificates on the web portal run by the Financial Administration.

Keeping simplified records of sales

In some cases, it is possible to keep simplified offline records of sales. In this case, the taxpayer is not obliged to state the unique fiscal identification code on the receipt and only needs to send the sales information to the Financial Administration after the transaction has been completed or within 5 days from the transaction at the latest.

This simplified record keeping applies to services and goods sold on board of public transport, payments that are listed by a separate governmental decree and for which the online recording would significantly hinder the respective business, and also to sales to which, at the taxpayer's request, the Financial Administration granted an exemption. Such an individual exemption from the obligation to record sales online

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may be granted only if online connection is permanently impossible for the taxpayer concerned.

The Act also deals with cases when technical problems render it impossible to generate the fiscal identification code due to a short term connection failure. The taxpayer may then issue a receipt without the unique identification code. The transaction must be then recorded immediately after the connection has been reestablished or within 48 hours from the transaction at the latest.

Customer

The new legislation does not introduce any obligations to the customer. Unlike in Italy or Croatia, the failure to accept a receipt will not be penalized because a customer is not

required to obtain a receipt under any laws. However, the Financial Administration will try to motivate customers to obtain receipts by introducing a receipt lottery for cash and other prizes.

Should the taxpayer fail to issue a receipt, the customer may report such a taxpayer on the website of the Financial Administration.

Sanctions

Failure to issue a receipt and send information on the recorded payment via a data message is subject to a fine of up to CZK 500,000. Fines may also be imposed if the required data message is sent late. When imposing the fine, Financial Administration must take into account the circumstances of the case and of the taxpayer so that the fine imposed shall not be unnecessarily

harsh for the taxpayer concerned.



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AMENDMENT TO THE INCOME TAX ACT

On 21 July 2017 the Government presented an amendment to the Income Tax Act for 2017 to the Chamber of Deputies for consideration. The amendment introduces a number of important changes; the most important ones are listed below:

Extension of incomes subject to withholding tax

The Amendment introduces withholding tax for “small scale income” for dependent work. “Small scale income” is to be understood as income from an employment that is lower than CZK 2,500, if the employee concerned does not assert tax credits at this employer.

An employee who only has small scale income from their employer and at the same time small scale income from another payer then they shall no longer be obliged to

file tax return forms.

Partial withdrawal from voluntary pension savings accounts

As a reaction to the new Act on the termination of personal saving system, the amendment has introduced a “partial withdrawal” (one-time withdrawal at the request of the account holder). However, the account holder who decides to opt for such a partial withdrawal will be retroactively stripped of the tax exemption for employer contributions to the savings account and will have to pay taxes on such payments for the last 10 years.

Increase of child tax credits

Tax credit for one supported child shall rise to CZK 13,404 (CZK 1,117 a month), for the second supported child to CZK 19,404 (CZK

1,617 a month) and for the third and any other supported children to CZK 24,204 (CZK 2,017 a month).

The maximum annual tax bonus remains at CZK 60,300. The tax bonus will however only be paid to taxpayers whose income has in the respective tax period exceeded six fold the amount of an annual minimum pay. Equity income and real estate income no longer counts as a part of this income.

Reducing time test for tax free transfer of securities

The time test for a tax free sale of securities and shares inherited by an individual from a spouse or a relative in a direct line shall be reduced by the time for which such securities or shares were demonstrably held by such a spouse or relative.

AMENDMENT TO THE INCOME TAX ACT

Depreciation of intangible property

According to the current legislation, taxpayers may depreciate intangible property for a specific defined period of time. Audio-visual works may be depreciated for 18 months, intangible results of research and development and software for 36 months and other intangible property for 72 months. The amendment to the Income Tax Act provides taxpayers with the option to depreciate intangible property for longer periods of time, while it keeps the above time limits as the minimum time periods for depreciation. The new legislation will apply to intangible property for which depreciation started after 1 January 2017.

Depreciation of technical enhancement by a Lessee

According to the current opinion of the Financial Administration, it is not possible to depreciate technical enhancement of real estate of another owner, unless the taxpayer has entered into a lease agreement with the owner. The amendment extends this option to parties other than lessees (e.g. sub-lessees) under the same conditions.

The new legislation shall apply only to technical enhancements completed and put into use after 1 January 2017.



AMENDMENT TO THE INCOME TAX ACT

Destruction of real estate due to new development

The amendment changes the definition of a purchase price of real property should an old construction be torn down as a result of a new construction. Purchase price of the new construction shall now include, instead of the residual value used for accounting purposes, the residual value of the construction being torn down used for tax purposes.

Return of advances on future profits in case of a change of a shareholder

The amendment also regulates paying advances on future profits in commercial corporations and introduces a clear rule for situations in which corporations claim the return of advances paid and the shareholders have in the meantime changed. If

a decision was adopted that advances shall be returned, it shall be returned by the new shareholder, i.e. a shareholder at the moment when the advance is to be returned. The new shareholder is at the same time entitled to receive the tax returned.

Free of charge transfers of real estate and enterprises in the Czech Republic

The definition of taxable income in the Czech Republic has been extended and shall now include free of charge transfers of real estate and enterprises located in the Czech Republic between parties who are not tax residents in the Czech Republic, while the old regulation only included transfers between tax residents to tax.

The amendment is now being considered by the Parliament and it is likely to be subject-



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ted to further changes. However, 2017 will certainly bring two other changes effective as of 1 January 2017 introduced by Act no. 377/2015 Sb., on certain changes introduced due to the Act on termination of the personal saving system.

Increase of limits for tax free employee benefits

As of 1 January 2017, limits for tax free employment benefits will be increased up to the total of CZK 50,000 for employer contributions to supplementary pension insurance, additional pension insurance, pension insurance and private life assurance.

Increase of limits for tax deductions

Beginning in 2017, personal income tax payers will be able to deduct up to CZK 24,000 spent on supplementary pension insurance, additional pension insurance or pension insurance from their tax base and up to CZK 24,000 spent on private life insurance.



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AMENDMENT TO THE ACT ON THE ACQUISITION OF REAL ESTATE TAX

The long awaited amendment to the legislative measure of the Senate on the Acquisition of Real Estate Tax was published in the Collection of Laws on 5 August 2016 under no. 340/2016 Sb. and will be effective from 1 November 2016. The amendment will apply to all real estate transactions of tax obligations that arose after 1 November 2016 (i.e. the transaction is registered in the Land Registry after 1 November 2016).

The main change is that the buyer, instead of the seller, shall now be subjected to real estate transfer tax and there will no longer be any guarantor for the payment of this tax.

It will therefore be necessary to rephrase the respective provisions of agreements on the sale of real estates and possibly adjust the purchase price and rephrase possible agreements on future agreements that may include the old mechanism, which will

no longer apply after 1 November 2016.

Besides the major change above, the amendment also introduces the following minor changes:

- ▶ A new concept of tax exemption for transfer of new constructions and units – tax exemption will apply only to completed constructions and units;
- ▶ In case of transfer, only constructions and buildings, but not engineering grids shall be subject to tax (i.e. the grids themselves will be exempted);
- ▶ For the majority of empty plots of land, it will be possible to determine the value of land used for tax assessment;
- ▶ Barter of real estate will be taxed differently;
- ▶ Transfer of real estate during transfer of assets to a shareholder will be subjected to tax.

The Financial Administration has published the following explanatory note for the amendment:

<http://www.financnisprava.cz/cs/dane-a-pojistne/dane/dan-z-nabyti-nemovitych-veci/informace-stanoviska-sdeleni/informace-k-novele-zakonneho-opatreni-senatu-o-dani-z-nabyti-nemovitych-veci-7471>



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AMENDMENT TO THE VALUE ADDED TAX ACT

The amendment no. 243/2016 Sb. to the Value Added Tax Act, introduced the adoption of a new Customs Act, is rather extensive and introduces certain significant changes in the VAT system. The Amendment became effective upon its promulgation in the Collection of Law, i.e. on 29 July 2016 with the exception of its provisions on the change of territorial competencies of the tax authorities, which became effective on 1 September 2016.

We would like to inform you of the following changes introduced by the Amendment:

Control Reporting

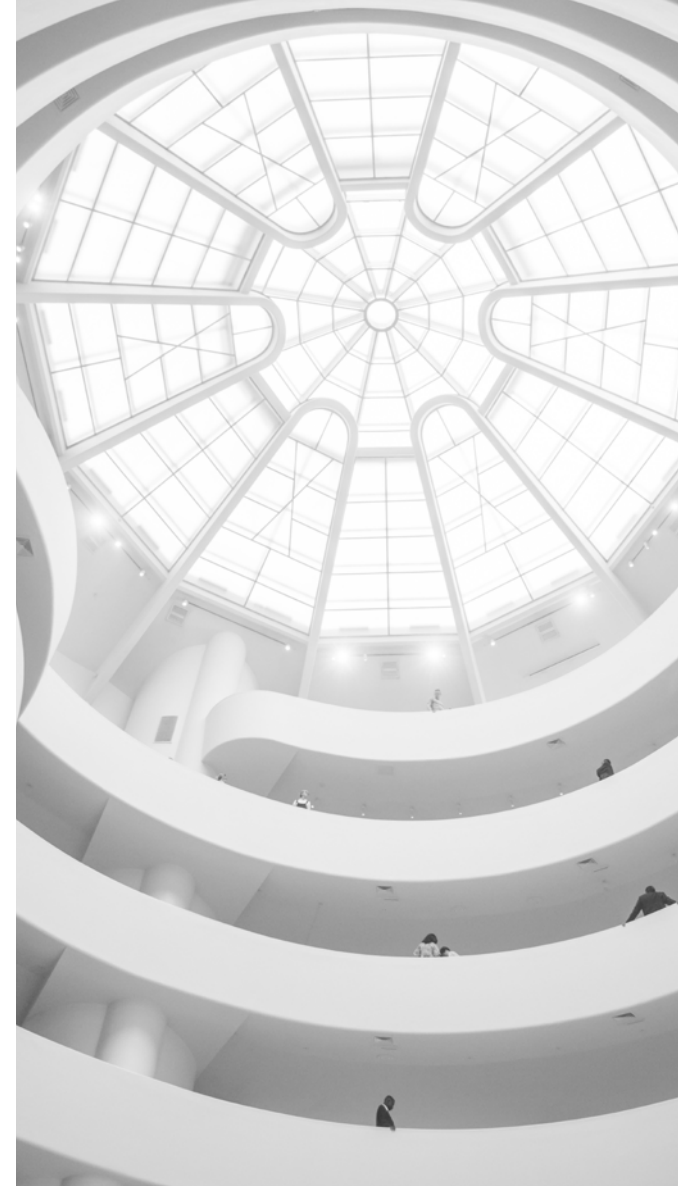
The time limit prescribed to reply to a tax authority in case of control reporting is increased from 5 calendar days to 5 business days. A fine of CZK 1,000 is imposed for a de-

lay with the first filing of a control report in a calendar year being automatically pardoned, unless another delay occurs.

Most other fines for delayed filling of the control report or failure to file a control report may be pardoned too, however only for a limited number of reasons (please refer to instruction GŘ D-29).

Change in territorial competencies

Tax subjects with no registered office or establishment in the Czech Republic shall be from 1 September 2016 referred by the Tax Office of the Capital City of Prague to the Tax Office of the Moravian-Silesian Region. The Tax Office of the Capital City of Prague will in the next 12 months set the exact date when the above subjects will be transferred from Prague 1 to Ostrava, Czech Republic.



AMENDMENT TO THE VALUE ADDED TAX ACT

Supply of goods by a party outside the EU

The taxation of goods supplied by a supplier who is not a tax resident in the Czech Republic and is not registered in the Czech Republic as a VAT payer will change. Such persons were previously obliged to register to VAT in the Czech Republic and if goods are delivered to a Czech VAT payer, the supplier shall no longer be obliged to register to VAT as VAT will be paid by the buyer through the reverse charge mechanism.

Tax free zones and tax free stores have been abolished

Exemption from VAT applicable to supplies of goods located in tax free zones and tax free stores have been abolished.

We would also like to remind our readers that 2016 will also bring the following changes in VAT legislation:

- ▶ Domestic reverse charge will be extended and will include access and interconnection services to electronic communications networks – from 1 October 2016.
- ▶ VAT rate for “catering services and bartending services, unless exempted from tax under Sec. 57 to 59 or unless included under customs tariff numbers 2203 to 2208 as sale of alcoholic beverages or under customs tariff numbers as sale of tobacco products“ will drop from 21% to 15% on 1 December 2016.



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ACT ON PROVING SOURCES OF PROPERTY

The Act on Proving Sources of Property (which is a de facto amendment to the Income Tax Act) was published in the Collection of Laws, Section 126 on 3 October 2016 under no. 321/2016 Sb. The Act will become effective on 1 December 2016.

This Act provides tax authorities with a number of tools to identify the source of undeclared income of tax subjects and assessing the correct tax obligation. Among other things, it has introduced an obligation to, at the tax authority's request, prove the source of income for a period that the tax authority is entitled to collect tax or to file a property declaration (if conditions set by the Act are met).



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