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News in Brief, March 2026

Editorial

March of this year confirms that regulation – whether tax related, technological or legal – is entering a new phase. On the one hand, we can see efforts by the state to simplify and digitise; on the other hand, the number of areas where rules are being refined, expanded or where the boundaries of existing practice are being shifted continues to grow. For companies and individuals alike, this means one thing only: navigating the tax and legal environment is becoming an increasingly strategic discipline.

In taxation, a key topic is the return of electronic sales reporting a.k.a. EET 2.0. This time, the debate is not limited to sales reporting itself but extends to the broader setting of the relationship between the state and entrepreneurs – the level of administrative burden, the digitisation of tax administration, and targeted support for small businesses. At the same time, discussions are opening on how to respond to changes in international working arrangements, for example in connection with remote work from home and the creation of a permanent establishment – here, the Czech approach is beginning to differ noticeably from the OECD's interpretations.

Case law and EU decisions remind us that tax rules are not static. The decision of the EU General Court on VAT deductions shows that an emphasis on the material substance of transactions can fundamentally change existing practice and strengthen legal certainty for taxpayers. At the same time, however, tension arises between the EU interpretation and domestic practice, which will need to be resolved shortly.

The legal section of the Tax and Legal Update reflects two strong contemporary trends: technological progress and the search for responsibility. Whether it concerns the simplification and postponement of AI rules under the Digital Omnibus, or the first legislative steps towards the operation of autonomous vehicles, questions increasingly arise as to who bears responsibility for decisions previously made exclusively by humans. Similarly relevant is the traditional topic of holding multiple functions (offices) within companies, where case law has long confirmed that formal solutions without a genuine assessment of roles may lead to significant legal risks.

The March issue of the Tax and Legal Update therefore offers not only an overview of current changes but above all a broader perspective on how law and taxation are adapting to a changing world of business, technology and work. I believe the individual articles will help you better understand these changes and prepare in time for their practical impacts.



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Taxes

EET 2.0 and other proposals by Ministry of Finance

The Ministry of Finance has disclosed a draft legislative package that includes the reintroduction of electronic sales reporting (EET) and other changes in personal income taxation, family support, and the digitisation of tax administration.



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The bill on electronic sales reporting and amendments to certain other laws was submitted by the ministry for comment procedure on 19 February 2026. Most of the measures are proposed to take effect from 2027.

Electronic sales reporting - EET 2.0

Compared to the previous system from 2016, the new version of EET is supposed to be technically simpler, better reflect the current digital economy and mean less admin for small businesses. It is planned to be used to report all contact payments (i.e., payments made by personal contact), both cash and non-cash (e.g. payments made using a QR code, payment cards, gift cards, vouchers for goods, etc.).

For the electronic sales reporting purposes, personal interaction plays a key role, as a contact payment is understood to be a payment made in person with the taxpayer or at their place of business when ordering or receiving goods or services.

Electronic sales reporting should be based on a minimum amount of data being transferred, and greater use of non-cash payments. A free web application from the financial administration should be available for small businesses. The law should not require businesses to issue receipts to customers.

"EET OFF" scheme for the smallest businesses

A new feature is the special "EET OFF" scheme for businesses subject to lump-sum tax in the first band and annual income of up to CZK 1 million. These businesses should not be required to report their sales in the system. However, their lump-sum tax should increase by CZK 1,400 per month.

Under the bill, eligible businesses will have to apply for the "EET OFF" scheme with the tax administrator through a notification of registration for a surcharge to be exempt from the statutory electronic sales reporting obligation.

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If a business ceases to meet the conditions for using this scheme, the obligation to report sales electronically will apply to them from the following taxable period.

EET-related tax credit

In connection with the reintroduction of EET, the bill proposes to introduce a tax credit for taxpayers with income from self-employment to compensate them for the administrative burden. This will be calculated as the positive difference between 15 per cent of the partial tax base from self-employment and the basic tax credit per taxpayer. If this amount exceeds CZK 5,000, only CZK 5,000 should be applied.

This credit should be a one-time tax credit that can be applied in the first taxable period when the taxpayer registers their sales. The credit should be available to those who are registering sales for the first time, as well as those who had already fulfilled this obligation in the past under the original law. Tax residence and the share of income from sources in the Czech Republic will not be decisive for claiming this credit.

Tax credits for employees and families

The proposed legislative package also includes changes to personal income taxation.

- **Tax credit for placing a child in a preschool facility**
  For each dependent child, a tax credit of up to the minimum wage per year should be available. The proposed wording takes into account situations where parents share custody of a child, allowing the maximum limit to be divided between the individual households in which the child lives.

  Under the bill, preschool facilities will be required to electronically report specified information to the tax administrator. This includes data on enrolled children, taxpayers who incurred expenses for their enrolment, and the total amounts paid by individual taxpayers. The information will be submitted through a new prescribed form that will have to be filed no later than 31 January following the end of the relevant calendar year.

- **Tax credit for being a student**
  The annual tax credit for being a student should be reinstated at its previous level prior to its cancellation in 2023, amounting to CZK 4,020 per year.

- **Exemption of leisure-related employee benefits**
  The bill proposes to abolish the limit for income tax exemption of non-financial leisure benefits (with the exception of recreation and travel, for which the limit of CZK 20,000 per taxable period would be reinstated), as was the case until 31 December 2023.

  The same should also apply to the exemption of non-financial income arising from the participation of an employee or their family member in social events, including those with a cultural or sporting element, organised by the employer for a limited group of participants.

  The limit for the income tax exemption of the purchase of goods or services of a health, medical, hygienic and similar nature from healthcare facilities or the purchase of medical devices on prescription should remain in application, up to the average wage for the taxable period.

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- **Non-financial benefits provided in the form of contributions to social services**
  Non-financial contributions provided by an employer to an employee or their family member for personal assistance, nursing care, emergency care, respite care, early care or day care services should now be exempt from income tax if they are provided as a community service and on the basis of authorisation under the Social Services Act.

Income tax exemption of voluntary tips from meal services

Voluntary tips given to employees in the catering industry are proposed to be partially exempt from personal income tax and social security and health insurance contributions.

The exemption should apply only to voluntary tips that employees receive within the framework of their employment relationship in direct connection with the provision of meal services. Tips must be provided by customers and only apply to establishments where meal services are provided for consumption on the premises – typically restaurants, cafés, bars and similar establishments. The exemption should not apply, for example, to snack stalls, food trucks, or open-air markets.

According to the bill, tips up to 7 per cent of the employer's monthly income from meal services should be exempt from personal income tax and social security and health insurance contributions. It is up to the employer to determine how tips are distributed among individual employees. If employees receive income in the form of tips from meal services from multiple employers, the limit for their exemption is assessed separately for each employer.

The exemption should only apply to employees who have income from employment (dependent activity) and not to self-employed persons who run their own catering business.

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GFD's Information on VAT on immovable assets – Part II

Rules for applying VAT on renovation work, tax rates applicable to housing, and changes in the optional application of VAT on the supply of immovable assets: these are the topics of Part II of our article about the General Financial Directorate's Information on the Application of VAT to Immovable Assets effective from 1 July 2025, which responds to last year's amendment to the VAT Act.



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You can read Part I of our article on this topic here.

Immovable asset sale test

One of the biggest changes is the "restart" of the test for sale of immovable assets in the event of a substantial change to a completed immovable asset: the test will restart when modifications change the use of the building or the conditions of occupancy (e.g., insulation of the house, installation of a lift) and their actual costs exceed 30 per cent of the VAT base on subsequent sale. For example, if a house is renovated for CZK 1.5 million and then sold for CZK 4 million, the share of renovation costs is 37.5 per cent; this then constitutes a substantial change to the property, and its first sale after such renovation will again be subject to VAT.

Please note that the actual costs of renovation also include DIY work and VAT-exempt supplies. Conversely, interest on loans is not included in these costs. It is essential that these are costs incurred by the seller. For example, if a house is purchased that has already been extended and is subsequently insulated at a cost of CZK 2 million and sold for CZK 8 million, the parameters for a significant change to the property are not met, as the share is 25 per cent. The sale will therefore not be subject to output VAT.

Tax rate and social housing

The reduced rate applies only to the supply or construction of buildings for social housing. It is not sufficient that the building is for housing. A building for social housing is defined as:

1. an apartment building where more than half of the floor area consists of living space for social housing,
2. a family house with a floor area not exceeding 350 m2, and
3. habitable space for social housing.

For buildings under construction, it must be proven that the social housing parameters will be met upon their

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completion.

For construction and assembly work, the reduced rate applies to all work on a completed building for housing or social housing purposes. However, if modifications to a completed building change the building's purpose so that it is no longer a building for housing or social housing, the basic rate shall apply. If the work is carried out on mixed-use buildings, the tax base shall be divided according to the proportion of floor space.

A key role in social housing plays a new decree on the calculation of floor area, as this may alter the classification of existing buildings, as well as the registration of a building in the RÚIAN register (Registr územní identifikace, adres a nemovitostí – Register of Territorial Identification, Addresses, and Real Estate). The actual use of the property is no longer relevant for VAT purposes. An apartment building qualifies as an apartment building only if it is registered as such. Where the factual use differs from the registration, the registration is decisive for VAT purposes until the owner corrects it. In practice, it then makes sense to thoroughly check both the floor area and the RÚIAN registration before signing a contract.

Decision to apply VAT for completed selected immovable assets

Under the new rules, VAT payers—and certain persons not established in the Czech Republic—may choose to subject the supply of completed selected immovable assets to VAT. However, for specific categories of buyers, the choice is conditional upon the buyer's consent. Such consent may also be inferred where the buyer declares VAT. As a best practice, consent should be expressly incorporated into the purchase agreement to avoid interpretation uncertainty. Where the property is supplied between VAT payers, and if they opt for applying VAT, the buyer pays VAT under the reverse charge mechanism.

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Claiming VAT deduction in previous taxable period via additional VAT return?

The Coordination Committee of the Chamber of Tax Advisors and the General Financial Directorate (GFD) assessed whether it is possible to claim a VAT deduction in a previous period through an additional VAT return after receiving a tax document. The committee concluded that this was not possible.



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The relevant discussion paper deals with a situation where the supply recipient claims a VAT deduction not through a regular VAT return for the period in which the document was received but through an additional VAT return for the taxable period in which the relevant tax liability arose and files the additional VAT return only after the tax document is received.

An example would be a scenario in which Company A provided Company B with a taxable supply with a date of supply in January 2025 but did not issue and deliver the corresponding tax document to the recipient until May 2025. Company B then claimed the related VAT deduction in an additional VAT return for one of the taxable periods from January to April 2025, filed in May 2025 after receiving the tax document.

The GFD emphasises that claiming a VAT deduction is conditional on possession of the tax document. The VAT Act therefore clearly determines the earliest taxable period in which the deduction may be claimed. Consequently, it is not permissible to claim a VAT deduction through an additional VAT return for a taxable period in which the statutory conditions for claiming the deduction were not yet fulfilled.

Such an approach cannot be justified even by the provisions of Section 104 of the VAT Act, the purpose of which is to reduce administrative burden. Reducing administrative burden consists in reducing the number of additional tax returns filed and therefore targets situations in which taxpayers are obliged or have the option to file additional tax returns, which is not the case here. At the same time, the GFD pointed out that the purpose and objective of Section 104 of the VAT Act is not to override the rules for claiming VAT deductions.

Consequently, the right to deduct VAT cannot be exercised in an additional VAT return for the taxable period in which the supplier's obligation to declare tax arose if no tax document was received during that period. This applies even if the additional VAT return is filed after the tax document has been received.However, following the conclusions of the recent judgment of the EU General Court T-689/24 (discussed in detail here), it is possible that this issue will be reopened and discussed by the Coordination Committee again. We will continue to monitor the situation and report on its development.

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Ministry of Finance responds to update of OECD Model Tax Convention

In November of last year, the OECD released an update to the Model Tax Convention on the avoidance of double taxation, including revisions to the accompanying Commentary. Among the changes is a substantially revised interpretation concerning the creation of a permanent establishment arising from cross border remote work performed from a home office. In its response, the Ministry of Finance has issued a Communication outlining selected consequential changes and clarifying their implications for domestic practice.



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Creation of a permanent establishment arising from remote work (home office)

We wrote in more detail about the update to the Commentary on the Model Tax Convention in relation to the formation of a permanent establishment here.

The OECD Commentary on Article 5 (Permanent Establishment) of the Model Tax Convention stipulates that a permanent establishment arising from working from home for an employer abroad does not usually arise if:

- the employee works from home abroad for less than 50 per cent of their working hours during a 12-month period,
- the employee works from home for more than 50 per cent of their working hours during a 12-month period but the employee's activities are not of a "business nature".

Already in the course of amending the Commentary, the Czech Republic applied a reservation to the above criteria, which the Ministry of Finance further elaborates and justifies in its Communication of February 2026.

According to the Ministry of Finance, the proposed criteria are not upheld by Article 5 of the Model Tax Convention itself. At the same time, the ministry objects to the mere category of premises having a decisive influence on the creation of a permanent establishment: an example is given of a situation where working from an office abroad would generally lead to the creation of a permanent establishment even if the proportion of working time spent there was less than 50 percent (in accordance with Article 5), whereas performing the same work from home would not lead to the creation of a permanent establishment if the approach set out in the Commentary were applied.

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The Ministry of Finance's main objection is that the Commentary is not legally binding and its content may not correspond to the actual wording of the double taxation treaty. According to the ministry, the Commentary therefore does not provide sufficient legal certainty when assessing the creation and existence of a permanent establishment.

Further changes resulting from the update to the OECD Model Tax Convention

The updated Commentary on Article 9 (Associated Enterprises) of the OECD Model Tax Convention addresses the issue of the classification of financial transactions between associated enterprises, in particular whether a purported loan should be treated as debt for tax purposes or reclassified, for example, as an equity contribution. The Communication emphasises that this assessment must always precede the actual determination of the transfer price. Only once the nature of the transaction has been determined can the arm's length principle be applied in accordance with the relevant chapters of the OECD Transfer Pricing Guidelines. The Communication also draws attention to the connection between Article 9 and domestic rules limiting the tax deductibility of interest.

In this context, the updated Commentary emphasises that a corporation’s profits must first be determined using the arm's length principle and then adjusted in accordance with national rules, such as those limiting the tax deductibility of interest.

As for Article 25 (Mutual Agreement Procedure), the only amendment to the Model Convention was the insertion of a new paragraph in connection with the implementation of the Amount B under Pillar 1 of the OECD/G20 project. The newly added paragraph 6 of Article 25 addresses the relationship between double taxation treaties and the General Agreement on Trade in Services (GATS). Any dispute between the contracting states is to be resolved primarily by mutual agreement procedure under Article 25 of the double taxation treaty, and only if no agreement is reached under this procedure, under GATS.

The commentary on Article 26 (Exchange of Information) has also been significantly expanded. Among other things, the Communication points out that information received by the competent authority in the context of international exchange may also be used for tax matters concerning a person other than the one for whom the exchange of information was originally made, provided that such use is in accordance with the relevant legislation.

An updated full wording of the Model Tax Convention with the accompanying Commentary can be expected to be published during 2026.

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Legal

Back to drinking after Dry February? Definitely not at work

Dry February is over, but not at work. There, abstinence continues regardless of the calendar – and it is not a voluntary challenge, but a rule laid down by law. What are the implications for employees and employers?



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Employees are prohibited from consuming alcohol in the workplace and are not allowed to enter the workplace under the influence of alcohol during working hours. Employers have a duty to ensure a safe working environment and prevent risks, so they must ensure that these rules are strictly observed and enforced.

If there is reasonable suspicion that an employee is under the influence of alcohol, they are obliged to undergo a test at the instruction of an authorised executive. It is essential that the employee authorised to issue such an instruction is clearly identified and that a process is in place to follow in such situations. The test may take the form of a preliminary breath test or a professional medical examination. It is important to bear in mind that, although there are a number of means of detecting the presence and, where applicable, the amount of alcohol in an employee's body, only the result of a measurement carried out using an approved breathalyser can be used as evidence in a possible dispute with the employee (while it should not be used as the sole evidence).

We recommend that a report be written for each test performed. If the preliminary test indicates alcohol influence, the employee should be asked to undergo a specialist medical examination (and subsequently undergo it). It is advisable to have a medical facility secured in advance where a specialist examination will be performed. The question of reimbursement of the costs of such an examination is also important: in practice, the costs of a specialist examination are paid by the employer at the time of its performance. However, if the result is positive, the employee is obliged to reimburse the employer for the costs incurred.
If an employee refuses to undergo a specialist examination, regardless of whether they were asked to do so because of a positive preliminary breath test result or because they refused to undergo the preliminary examination, they are considered to be under the influence of alcohol.

Alcohol as a reason for termination?

If an employee is suspected of being under the influence of alcohol, it is first and foremost necessary that they immediately cease performing work until they are fully fit to perform it again. Further action against the employee depends on the employer who must evaluate the seriousness of the breach of duty and the degree of risk to safety

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and choose the appropriate course of action accordingly.

Importantly, the mere detection of alcohol in an employee does not always automatically constitute grounds for dismissal. Not every case will constitute a particularly gross breach of duty that would justify immediate termination of employment – sometimes it will not even be a serious breach of duty leading to termination by notice. Each situation must be assessed individually, taking into account the specific circumstances, the type of work performed and the degree of influence. On the other hand, in some cases, performing work under the influence of alcohol may constitute a misdemeanour or even a criminal offence.

However, the law allows for certain exceptions to the ban on alcohol consumption or entering the workplace under the influence of alcohol. The first exception applies to employees working in unfavourable microclimatic conditions, typically in steelworks or glassworks. Under certain conditions, they may consume beer with a reduced alcohol content, which in practice is often replaced by isotonic drinks. The second exception applies to situations where alcohol consumption is part of the performance of work tasks or is usually associated with them. This may include, e.g., tasters in the production of alcoholic beverages or a symbolic toast at a formal reception with business partners. However, these cases are truly exceptional and should be interpreted restrictively. The basic rule remains unchanged: sobriety in the workplace is a standard that protects not only the employer but, above all, the safety of all involved.

We recommend that employers review their internal regulations to ensure that they allow for the proper and smooth-running alcohol testing. At the same time, we recommend preparing a sample protocol of conducting the test and ensuring that suitable and approved types of breathalysers are used. This will ensure that the procedure for suspected alcohol influence applied by the employer is sufficiently conclusive and will stand in the event of subsequent sanctions being imposed by the employer. A transparent and properly set up process will help employers not only to comply with their legal obligations, but also to minimise the risk of potential disputes with employees.

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Legal

Setting roles in corporate structures: what are practical limits for concurrence of functions?

Correct setting of roles in a corporate structure is often challenging in practice, and the issue of concurrence of functions (offices) has been a long-standing one in the Czech legal environment. We therefore offer a brief and up-to-date overview of this matter.



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Members of statutory bodies may not simultaneously hold an employment position with the company if the duties performed under that employment fall within the scope of the company's business management. The courts interpret the concept of "business management" broadly, and in practice it is therefore often not possible for a member of a statutory body to simultaneously serve as, for example, a CEO, head of the legal department or HR manager. Any employment relationship must therefore be approached with caution.

We often encounter situations where a member of a statutory body also has an employment contract with the company, and their job involves administrative activities – either for the company or for the statutory body itself. However, the Supreme Court has repeatedly ruled that administrative and support activities (e.g. convening general meetings, tax agenda, bookkeeping) are an integral part of exercising an office as a member of a statutory body and cannot be performed on the basis of an employment relationship.

Conversely, a member of a statutory body may be employed in a position unrelated to business management, such as a doctor, IT programmer, lecturer, etc. In such a case, the employment contract may be validly concluded.

The mutual rights and obligations between a member of a statutory body and the company are governed by a contract on exercising an office, which must be in writing and approved by the supreme body of the company. The case law of general courts and the Constitutional Court allows parties to contractually agree to have their relationship governed by the Labour Code. However, this does not rule out the application of mandatory provisions of the Corporations Act, particularly regarding liability for the exercise of an office, remuneration, or the commencement and termination of an office.

Corporate representation and supervisory board

In practice, a corporate agent often acts on behalf of the company and may also hold an employment position with the company, typically in roles such as finance director, HR director, or in another senior management position. However, it is not possible to contractually stipulate that a breach of duties arising from their mandate as a corporate agent can be automatically deemed grounds for termination of their employment relationship.

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The Supreme Court's case law has further concluded that it is not possible to stipulate that a statutory body and a corporate agent shall be acting jointly, and any contractual arrangement allowing for such a possibility is null. At the same time, it is not possible to grant corporate representation to an existing member of the statutory body; this approach differs, for example, from German or Austrian legal regulations, which allow for ‘combined corporate representation’ (i.e., joint action by the executive director and the corporate agent).

The law also prohibits a member of the supervisory or administrative board of a joint-stock company from being a corporate agent. A member of the supervisory board may not simultaneously be a member of the board of directors or another person authorised to act on behalf of the company according to the entry in the commercial register. The possibility of concurrent employment and membership in the supervisory board remains an unresolved issue. In view of the legal possibility of electing employees to the supervisory board, this issue must be approached with caution.

For supervisory board members, it is always necessary to assess the content of the employment contract individually and verify that it does not overlap with their supervisory function; a comprehensive interpretation of the subject matter / scope of supervisory board’s activities has not yet been addressed by the courts. If the supervisory activities of a member of the supervisory board overlap with their job description, it can be assumed that similar rules will apply as for members of statutory bodies. However, we have yet to wait for case law on concurrence of functions for members of the supervisory board.

Given the complexity and development of case law on concurrence of functions, we recommend proceeding with caution when setting up a corporate structure and always evaluating the specific job description and contractual relationships of individual persons on a case-by-case basis after thorough consideration.

If you have any questions, please do not hesitate to contact us. We will be happy to help you find a suitable solution.

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Czech legislation has taken first step towards self-driving cars

Since the beginning of this year, it has been possible to use vehicles with conditional driving automation on selected sections of Czech roads. According to the international SAE scale, this is the first level at which a vehicle can drive itself under strictly defined conditions.



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The SAE scale distinguishes between levels of driving automation from SAE 0 to SAE 5, with fully autonomous vehicles corresponding to SAE 5. Czech legislation has newly introduced SAE 3, i.e. conditional automation. This allows vehicles to operate on motorways and expressways with directionally separated lanes where there are no pedestrians or cyclists.

In this mode, the vehicle monitors traffic itself, stays in its lane and regulates its speed. The system also evaluates whether the conditions for automated driving are met and, if so, offers the driver the option of activating it. By comparison, Germany, which inspired the Czech legislation, has allowed vehicles with SAE 3 level to operate since 2017, with these cars appearing in regular traffic in 2022.

Czech legislation newly defines the term "automated vehicle" and extends the definition of a driver to include a person who sits in the driver's seat of an automated vehicle and adjusts the rules for its operation. However, a number of questions arise, particularly in relation to duties and responsibilities during automated operation. When automated mode is active, responsibility for compliance with traffic regulations is assigned to the vehicle's automated system. The standard obligations of the driver do not apply in full; however, the individual in the driver's seat must remain able to assume control at any time and continues to be subject to certain core duties, such as wearing a seatbelt, abstaining from alcohol, and refraining from holding a mobile phone.

From the perspective of setting rules of responsibility/liability, it should be emphasised that if the vehicle alerts the driver to take over driving and the driver ignores this, they are responsible/liable for any subsequent violations of the rules. Recording devices that capture whether the vehicle was driven by the system or a person are therefore of key importance. Refusal to disclose such data gives rise to a rebuttable legal presumption that the vehicle was driven by a human. The Vehicle Register now also includes information that the vehicle is an automated car. Manufacturers are also obliged to provide the Czech Police or the relevant administrative authority with available driving data.

The vehicle operator is not liable for offences if they can prove that the vehicle was driven by an automated system. However, the operator remains liable for civil damages. It can therefore be assumed that any injured party will seek compensation primarily from the operator's insurance. The current amendment to the Act on Liability for Damage Caused by the Operation of a Vehicle does not contain a special regime for automated vehicles.

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Liability for product defects

Liability for product defects and subsequent recovery from the manufacturer in the event of a defective automated system remain problematic areas. The current regulation of liability for damage caused by product defects only takes limited account of the specific characteristics of automated and software-controlled systems. One of the specific features is that their safety and functionality are continuously affected by updates even after the product has been placed on the market, which may lead to an undesirable weakening of the manufacturer's liability.

A fundamental change may be brought about by the new directive on liability for defective products, which is expected to be transposed by December 2026. The Product Liability Directive introduces new restrictions on the possibility of manufacturers being exempt from liability where the defect is the result of circumstances within the manufacturer's sphere of influence and control, in particular where it is caused by a related service or software (including updates).

The directive also extends the concept of a product to include software and digital production files, defines related services as part of the product, and considers insufficient testing or faulty updates to be defects. At the same time, it expands the range of responsible persons, allows for their joint liability, and makes it easier for the injured party to prove a defect (e.g., presumption of product defectiveness if the responsible person fails to provide relevant evidence). However, we will have to wait until at least the end of the year for the specific form of the Czech regulation.

Given developments in this area, increased demands on manufacturers can be expected. The importance of technical documentation, operational data and internal risk management processes will grow not only for them, but also for other affected entities. Furthermore, if these systems use elements of artificial intelligence, manufacturers should not forget the new obligations arising from the Artificial Intelligence Act (AI Act).

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AIFMD II tightens rules for outsourcing. Standard funds will also feel impact

AIFMD II changes the rules for outsourcing and extends supervision over it, affecting not only the managers of qualifying investor funds and special funds but also the managers of standard funds. The amendment to the Act on Investment Companies and Investment Funds (AICIF) is due to come into force on 16 April 2026.



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This article is the first in a three part series on the subject and follows the general overview of the changes introduced by AIFMD II that we examined in mid 2025.

Tightening of rules

The changes to AICIF relating to outsourcing are not limited to qualifying investor funds and special funds. AIFMD II also regulates the rules for standard funds, and the proposed transposition is explicitly based on the objective of eliminating unjustified differences between regimes. Outsourcing is one area where the rules are converging, including licensing requirements and reporting.

The amendment to the AICIF reopens the topic of 'letter-box companies', i.e., management companies that have been entrusted by other persons with the performance of (almost) all of the activities of a fund manager. The amendment extends the impact of this concept to services provided by the fund manager in addition to the fund management itself. The rules for the outsourcing of key fund activities, such as portfolio management or risk management, are being tightened. In addition, if a company wishes to continue to use outsourcing, it is obliged to maintain transparency towards investors and the Czech National Bank (CNB).

Fund managers must now prove that they have selected a qualified and competent person, that they will be able to monitor them continuously and effectively, that they can give them instructions, and that they can terminate the authorisation without delay if the interests of investors so require. The manager's responsibility to the fund and investors remains even after a third party has been appointed. This applies regardless of the legal status or location of the authorised person or other authorised persons. The exception is now explicitly addressed for certain distribution models where the distributor acts on its own behalf under MiFID/IDD.

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Sufficient documentation and evidence

The biggest change will concern documentation and evidence. The transposition proposal anticipates that managers will provide the supervisory authority (CNB) with more extensive information about whom they have authorised, what they have authorised them to do, and how they monitor them. Emphasis will also be placed on describing the manager's own human and technical resources for the day-to-day performance of activities within the manager's organisation and for the supervision over authorised persons. The proposal also stipulates record-keeping of regular due diligence reviews, and manager's ability to document any problems identified and measures taken.

AIFMD II expands and significantly refines supervisory reporting to include delegated activities, particularly the delegation of portfolio and risk management. Managers will have to regularly report detailed information on the persons to whom they delegate activities, the scope of the delegation and how they actually monitor and control the delegation, including due diligence capacities and results.

Practical implications

Looking at the situation in the Czech Republic, it will not be just a matter of amending one contract: companies will need to review their authorisations, including supporting activities, adjust their record-keeping, check the settings of their control systems, and harmonise their internal rules.

Furthermore, AIFMD II anticipates that the European Securities and Markets Authority (ESMA) will have more data on outsourcing across the EU and will evaluate market practices. This will lead to a more uniform interpretation and stricter control at the national level. We therefore expect that the CNB will also focus more on substance and actual supervision in outsourcing, rather than just formal contractual arrangements.

We will be happy to help you map your outsourcing arrangements and adjust your control framework and outsourcing and distribution agreements to meet the new expectations and pass compliance checks.

In the next issue of the Tax and Legal Update, we will focus on liquidity management. And the third article in our series on AIFMD II will be on credit funds.

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Legal

Digital Omnibus and GDPR: upcoming changes in personal data protection

The comprehensive digital package (known as the Digital Omnibus) presented by the European Commission in November 2025 focuses on changes to digital legislation in data protection and processing, cybersecurity and artificial intelligence. It should also have a significant impact on personal data protection (GDPR). Here is an overview of the key areas that may be affected by the upcoming changes.



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The proposed amendments are primarily aimed at clarifying and simplifying the rules to relieve addressees and public authorities of the administrative and financial burden associated with fulfilling their obligations. The aim is to strike a balance between maintaining a high level of personal data protection and supporting technological development and business competitiveness.

When will data be considered "personal"?

The proposal provides for a more precise definition of personal data, with particular emphasis on the "identifiability" of a natural person. Information relating to a natural person may not automatically be personal data for every entity simply because another entity is able to identify that person. When assessing identifiability, all means that can reasonably be expected to be used to identify the data subject (e.g. availability of additional data, costs, effort required, etc.) should therefore be taken into consideration. Thus, certain information may constitute personal data for some entities, while for others that do not have the means to identify the data subject directly or indirectly, it may not be personal data.

Right of access and obligation to inform data subjects about the processing of their data

Simplification should also apply to certain obligations of personal data controllers. If a data subject clearly abuses their right of access (e.g. by submitting excessively repetitive or clearly unfounded requests), the controller will be entitled to refuse the request or charge a reasonable fee. With certain exceptions, the controller will also not be obliged to inform the data subject in situations where there are reasonable grounds to believe that the data subject already has the relevant information.

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More favourable conditions for artificial intelligence and new exceptions for the processing of sensitive data

The processing of personal data during the training, testing and operation of artificial intelligence systems should now be possible on the basis of legitimate interest, unless consent is required under other regulations. At the same time, the processing of special categories of personal data (sensitive data) is also permitted if they occur only residually in training or test data. In any case, however, controllers remain obliged to ensure adequate data protection through organisational and technical measures, including the performance of a balancing test.

The exception to the prohibition on processing sensitive data should also apply to biometric data if their processing is necessary to verify the identity of the data subject and, at the same time, these data and the means of verification are exclusively under the control of the data subject (e.g. they are stored on their device).

Access to devices and storage of cookies

The legislation responds to the phenomenon of "consent fatigue" where users are overwhelmed by an excessive number of interactive elements. The new legislation will place an emphasis on user-friendliness, with website operators having to allow users to refuse cookies with a single click and not repeatedly bothering users with requests at short intervals. The proposal also introduces an obligation for website and application administrators to respect user preferences set in the browser or application that express consent or refusal to store or read information from the end device. At the same time, there will be a certain relaxation of the rules for necessary and less invasive technical operations. For example, consent should not be required if the processing is necessary to provide a service requested by the user, to transmit electronic communications, to secure the website, or for the administrator's own traffic measurement.

More effective notification of personal data breaches

It is proposed that the controller's notification obligation should only apply to incidents that are likely to result in a high risk to the rights of data subjects. At the same time, the notification deadline should be extended from 72 to 96 hours. Notifications should be submitted via a "single-entry point" to be established under the NIS2 Directive. The European Data Protection Board (EDPB) is also to prepare a uniform notification template.

Conclusion

The proposed changes do not alter the fundamental principles on which personal data protection is based. However, the area requires ongoing adaptation to rapid technological developments and changes in the digital environment. The amendments do not re-evaluate the regulatory framework itself but rather aim to clarify and partially relax the existing rules, while considering the risks of infringement on the rights and freedoms of data subjects. The Digital Omnibus legislative proposal will now be subject to further discussions at the level of European institutions. It is therefore not yet possible to predict with certainty whether and in what form it will be adopted, and its final wording may undergo further changes.

We have also addressed the Digital Omnibus from the perspective of AI regulation. You can read the article here.

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Digital Omnibus and AI: simplification and postponement of AI rules

The European Commission has disclosed a digital package (known as the Digital Omnibus) that brings together a set of proposals for technical amendments to existing legislation, particularly in the digital field. It includes a proposal for a regulation to simplify the digital legislative framework and a proposal for a regulation to simplify the implementation of harmonised rules for artificial intelligence. We will discuss the latter in this article.



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The proposed amendments, presented by the European Commission in November 2025, aim to unify and simplify the rules and relieve businesses and public authorities of the administrative and financial burden associated with compliance. This should enhance competitiveness, while maintaining a high level of safety. A key change is the proposal to postpone the effectiveness of the rules for AI systems classified as high-risk under the regulation laying down harmonised rules for artificial intelligence (AI Act). This part of the AI Act isthe most complex and imposes extensive obligations on a wide range of entities, from manufacturers to end users. Moreover, practice shows that some rules are associated with interpretative ambiguities and application problems.

Originally, the rules for high-risk systems under Annex III of the AI Act were to take effect on 2 August 2026, and the rules for systems under Annex I on 2 August 2027. The new proposal provides for the possibility of a postponement of up to 16 months. The entry into force of the rules is to be linked to the availability of key supporting tools, in particular harmonised standards, Commission guidance on the application of the rules, and codes of practice.

The aim is to ensure that the rules are effective and enforceable only when the tools facilitating their practical application are in place. At the same time, however, the proposal sets deadlines by which the rules will automatically apply, even if the supporting materials have not been finalised. For systems under Annex III, this date is 2 December 2027, and for systems under Annex I, it is 2 August 2028.

Other changes introduced by the Digital Omnibus mainly concern the following:

- **Restriction of registration obligations:** For AI systems that providers do not consider to be high-risk based on their own assessment, the obligation to register in the database of high-risk systems is abolished. The obligation to document this assessment and submit it to the supervisory authorities upon request remains unaffected.

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- **Extension of the simplified scheme:** Reliefs that were previously reserved for small and medium-sized enterprises should now also apply to mid-cap companies. These entities should therefore also benefit from simplified obligations and more lenient penalties.

- **AI literacy:** The original wording of the AI Act imposed an obligation on AI system providers and users to ensure an adequate level of knowledge and skills among persons working with these systems. The Digital Omnibus shifts this responsibility primarily to the level of member states and the European Union through educational initiatives, recommendations and awareness-raising activities. However, the shift in responsibility does not diminish the importance of AI literacy as such, which remains a key prerequisite for the responsible and transparent use of AI systems.

- **Transparency of generative AI:** For systems generating synthetic content (sound, image, video or text) that were placed on the market before 2 August 2026, the obligation to label AI-generated outputs is introduced with a six-month postponement, i.e. from 2 February 2027. The aim of this postponement is to give the entities concerned sufficient time to technically implement appropriate mechanisms for labelling AI outputs.

- **Strengthening the role of the European Artificial Intelligence Office:** The AI Office should become the central supervisory authority for systems based on general AI models. It should supervise AI systems used by very large online platforms (VLOPs) and very large online search engines (VLOSEs). The AI Office should supervise the market and coordinate with national supervisory authorities.

The Digital Omnibus proposals can be seen as the European Commission's response to the practical difficulties that arose even before the AI Act came into full effect. The proposals aim to give those subject to the regulation more time to prepare, and at the same time they tie the key regulatory milestones to the adoption of supporting materials, the timing of which remains uncertain. The Council of the EU, on the other hand, would prefer a postponement based on fixed deadlines.

The Digital Omnibus proposals are now awaiting intensive negotiations in a trialogue between the Commission, the Council of the EU and the European Parliament. Whether it will be approved on time and in what form is uncertain at this point, given the tight deadline. We therefore recommend continuing to prepare for the new regulation so that you can respond flexibly to further developments in the regulatory framework.

We are also addressing the Digital Omnibus from the perspective of changes to GDPR rules. You can read the article here.

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Overview of current subsidy programmes

We provide an overview of currently open subsidy programmes, primarily focusing on selected programmes and calls under the Operational Programme Technology and Applications for Competitiveness, the Transport Programme 2021-2027, and the Modernisation Fund.



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Call name	Supported activities	Funds for allocation (in CZK million)	Closing date
Renewable Energy Sources – Biomass – Call I	Construction of heat sources and combined heat and power production from biomass	700	31 March 2026
Digital Enterprise – Digital Technology – Call I*	Acquisition of new non-production and production machinery, technological equipment and facilities, software solutions, IT infrastructure and services	1,000	17 April 2026
Renewable Energy Sources – Small Water Power Plants – Call I	Construction and modernisation of small water power plants	700	30 June 2026
Renewable Energy Sources – Wind Power Plants – Call III	Construction of wind power plants	1,500	9 July 2026
Circular Economy – Call II**	Reuse (e.g. of production waste), recycling (production of secondary raw materials) and waste reduction	800	30 July 2026
Call No. 37 – Support for the development of charging infrastructure with battery storage***	Construction of charging stations with a minimum capacity of 50 kW, including battery storage	345	31 March 2026
Call No. 42 – Support for the development of fast charging infrastructure for passenger vehicles – priority areas***	Construction of charging stations with a minimum capacity of 50 kW in priority areas	170	31 March 2026

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Call name	Supported activities	Funds for allocation (in CZK million)	Closing date
Call No. 43 – Support for the development of hydrogen filling stations in urban centres***	Construction of hydrogen filling stations in urban centres	300	31 March 2026
TRANSCom No. 2/2025 – Zero-Emission Road Freight Transport	Purchase of N2 and N3 category electric trucks	960	30 November 2026

** The call is intended only for small and medium-sized enterprises (SMEs) and only in selected regions.*
*** The call is intended for SMEs and small mid-cap companies (companies with a maximum of 499 employees within the corporate group).*
**** Charging stations must be publicly accessible.*

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Case law

SAC on taxation of biogas in biogas stations

The Supreme Administrative Court (SAC) heard a dispute over whether biogas produced and consumed in a biogas station should be subject to gas tax. The SAC ruled in the affirmative



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The case (7 Afs 160/2024-47) concerned a company operating a biogas station. The main question was whether biogas produced and consumed by the company itself in the production of electricity and heat is subject to gas tax under the Act on the Stabilisation of Public Budgets. The company argued that biogas is only an intermediate product in the production of electricity and should not be taxed.

The SAC upheld the lower court's decision that biogas is indeed subject to tax because it is used as fuel for the stationary engine of a cogeneration unit that produces electricity and heat. The key point was that the law does not distinguish between the technologies used to consume biogas: the obligation to declare and pay tax arises based on the consumption of biogas itself.

According to the SAC, the tax exemption applies only to the portion of gas used to generate electricity and not to the portion used to generate heat. The SAC also stated that the taxation of gas used for heat production is not excluded by the technical nature of cogeneration units producing electricity and heat simultaneously. Under EU law, it is possible to exempt from tax the portion of gas used to produce electricity, while taxing the portion used to produce heat. Czech law also allows for this separation for tax purposes.

The SAC dismissed the taxpayer's cassation complaint and concluded that biogas produced and consumed in a biogas station (i.e., the portion used to generate heat) is subject to tax under Section 4 of the Act on the Stabilisation of Public Budgets, regardless of the fact that it is only an intermediate product in the production of electricity from biomass. The SAC expressed a similar opinion in case 4 Afs 148/2024-51 where the taxation of biogas in connection with a cogeneration unit was dealt with in a similar manner.

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Case law

SAC: new judgments on substantive and temporal connection

In recent months, the Supreme Administrative Court (SAC) has issued several noteworthy rulings, all of which underline the importance of establishing a clear substantive and temporal connection between claimed expenses and the relevant taxable period. In its reasoning, the SAC further reiterates the taxpayer's burden of proof with respect to demonstrating that the underlying supplies were actually provided.



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In the first case (21 Afs 107/2025), the court assessed a situation where a taxpayer recorded and included in their tax base the costs of an audit of the 2010 and 2011 financial statements only in 2013 when the audit was actually performed and invoiced. However, both the SAC and the tax administrator agreed that these costs were not deductible for income tax purposes in 2013, as the costs incurred for an audit of the financial statements for previous periods were not – in terms of substance and timing - connected with this period.

A mere assertion that the audit was carried out during this period cannot, in the SAC's view, establish a sufficient connection to the 2013 taxable period. The court also noted that the audit of the 2010 financial statements was conducted only after those statements had already been filed in the Collection of Deeds, and the subsequently audited financial statements were not resubmitted to the Collection of Deeds. The taxpayer therefore failed to demonstrate a legitimate reason for conducting an audit with a delay of several years.

The second judgment (8 Afs 253/2024) dealt, among other things, with stabilisation bonuses. The taxpayer accounted for the costs of stabilisation bonuses and claimed them as tax deductible in the given period, arguing that the bonuses represented wage components to which their employees are entitled to. However, the SAC confirmed the tax administrator's conclusion that the company's management had the option to decide in the following year to whom and in what amount the bonuses would be paid, or not to pay them at all (e.g. upon termination of an employee's employment). Therefore, there was no entitlement to these bonuses. The judgment confirms that the cost of stabilisation bonuses can only be deductible for income tax purposes if the stabilisation bonus is actually granted to a specific employee and its granting is duly documented.

The third judgement (4 Afs 214/2024-87) dealt with the claiming of costs of building materials that were purchased and delivered after the completion and invoicing of several orders. Despite this fact, the taxpayer included them in costs related to projects that had already been invoiced. The tax administrator therefore questioned whether the costs of material were in fact connected to the specific taxable income of the period at issue, i.e., to projects that had already been invoiced.

The SAC agreed with the tax administrator and concluded that the taxpayer had failed to provide a credible explanation as to why to invoice orders before the necessary materials were purchased and delivered, nor how

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other purchases were related to the projects in question.

The current case law of the Supreme Administrative Court therefore emphasises the need to provide demonstrable evidence not only of the actual provision of services, but also of a clear temporal and substantive connection with a specific taxable period.

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Case law

Face recognition at airports gets green light from High Court

The High Court in Prague has authorised the use of an isolated system to monitor the premises of the Czech international airport. This is the first time that Article 5 of the AI Act has been applied in practice. The camera system uses artificial intelligence for remote biometric identification of persons and is to be part of the airport's integrated security system with the aim of increasing the protection of persons and preventing and investigating criminal activity.



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The use of real-time remote biometric identification systems in publicly accessible areas for law enforcement purposes is generally prohibited under Regulation (EU) 2024/1689 of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (AI Act). There are certain exceptions when this type of system can be used, but only with prior written permission under the Personal Data Processing Act issued by the presiding judge of the High Court.

In December 2025, the security system administrator of the Czech international airport submitted a request to use this isolated system, designed to perform real-time biometric identification of persons moving in monitored areas based on their facial biometric parameters. These persons are then to be compared with persons included in a reference database managed by the police. The results are to be used to search for persons suspected or accused of serious crimes, missing persons, or victims of crime, and to prevent threats to human life and terrorist attacks.

The use of this system represents a significant infringement on individuals' right to privacy. It can create a feeling of constant surveillance and, in the event of erroneous results, can also have discriminatory effects. In its decision, the High Court in Prague therefore focused in particular on its necessity, proportionality of use and impact on the rights of individuals.

Biometric data falls into a special category of personal data, the processing of which is only possible on the basis of strictly defined exceptions and only if appropriate safeguards are provided to protect the fundamental rights of the persons monitored. One of the exceptions is the existence of a significant public interest that must outweigh the right of individuals to privacy.

The purpose of the airport system is to increase security and obtain information important for identifying persons of interest. The High Court acknowledged that the environment of an international airport is characterized by a high concentration and movement of people. At the same time, it is a suitable and frequent location for

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committing illegal activities. According to the court, this establishes a legitimate and strong public interest in the timely identification of persons associated with criminal activity.

This interest outweighs the consequences that the use of the system has on the rights and freedoms of the persons concerned. The negative consequences are also significantly mitigated by the technical and organisational measures taken by the controller. For example, the operation and processing of the data takes place in isolation in a secure environment at the Ministry of the Interior, access is subject to strict security measures, and in the event of a match with data from the reference database, the evaluation is always carried out under human supervision.

The High Court found it essential that the cameras should only be located at tactical points of the airport with high passenger traffic and that they should not cover areas intended for rest or commercial purposes. This limited territorial scope prevents blanket monitoring of normal passenger movement and minimises infringement on privacy. The court also stated that this type of control cannot be reliably replaced by other measures, such as standard camera recordings, border controls or increased security. These alternatives do not ensure timely and accurate identification of individuals, which is crucial especially in situations of imminent danger.

The High Court in Prague therefore concluded that the reasons for using the system are justified and that the system makes it possible to achieve the legitimate objective pursued while limiting the infringement on the fundamental rights of individuals to the necessary and proportionate extent. The High Court in Prague therefore granted the system administrator's request.

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Case law

EU General Court on right to deduct VAT one month earlier fundamentally changes current practice

The EU General Court has issued an important decision (T 689/24) on VAT deduction, which has a fundamental impact on the practice of taxable entities and the creation of national legislation. The court addressed the question of whether it is possible to claim a VAT deduction in the period in which the tax liability arose even if the invoice was received later but before the filing of a VAT return.



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According to the General Court, the right to deduct VAT arises at the moment the tax liability arises, i.e., upon delivery of the goods or provision of the service. Possession of the invoice is only a formal condition for exercising the right, not for its actual origination. If the taxpayer has the invoice available when filing the return, national legislation should not prevent the VAT deduction from being claimed in the period in which the substantive conditions were met.

The decision criticises national rules that automatically postpone the possibility of claiming a VAT deduction to a later period solely because of the late receipt of an invoice. According to the court, such rules are contrary to the EU directive and the principles of neutrality and proportionality if they prevent a VAT deduction where the invoice is already available when the VAT return is being filed.

The General Court emphasised that member states may take measures to ensure the correct collection of tax and prevent tax evasion, but these measures must not systematically prevent VAT deductions where all the substantive conditions are met and the taxpayer already has the tax document (invoice) available at the time of filing the VAT return.

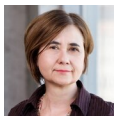
The practical implication of this decision is to strengthen the rights of taxpayers: they should be able to claim a VAT deduction in the period in which the tax liability arose if they have a tax document at their disposal when filing their tax return for that period.

Until now, it has been common practice in the Czech Republic to claim a VAT deduction only when the taxpayer has received the invoice, i.e., often one taxable period later than when the right to deduct originated. This ruling is therefore an important precedent for Czech and European tax practice.

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News in Brief, March 2026

Last month's tax and legal news in a couple of sentences.



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DOMESTIC NEWS

- The government has approved a bill on certain rules for the carbon border adjustment mechanism, which regulates the administration of the carbon border adjustment mechanism known as CBAM.
- Uber has signed a memorandum of cooperation with the Czech Financial Administration, introducing a system of regular monthly reporting of selected data for tax purposes.
- On 25 February 2026, the website of the Ministry of Labour and Social Affairs moved to a new internet domain, mpsv.gov.cz. This step is part of a nationwide initiative aimed at unifying the web presentations and electronic communication of central government bodies under the common domain gov.cz. The aim of the change is to make individual official government websites more transparent and increase the security of online communication with the public.
- On its website, the financial administration reminds visitors of key information and deadlines for filing income tax returns for 2025.

FOREIGN NEWS

- The Czech Republic and Japan are negotiating a new double taxation treaty that should replace the existing treaty between Czechoslovakia and Japan from 1977.
- The Council of the EU has added two countries to the list of non-cooperative jurisdictions: Vietnam, and Turks and Caicos. At the same time, the Council has removed three countries from the list: Fiji, Samoa, and Trinidad and Tobago, as they now comply with all agreed international standards. Following the update, the list includes the following ten jurisdictions: American Samoa, Anguilla, Guam, Palau, Panama, Russia, Turks and Caicos, the US Virgin Islands, Vanuatu, and Vietnam.
- The European Commission has announced that it will open infringement proceedings against ten member states that had not reported on their national measures implementing Council Directive (EU) 2025/872 (exchange of information under Pillar 2 – DAC 9) into their legal systems by the end of January 2026. These are: Belgium, Bulgaria, Cyprus, Czechia, Greece, Malta, the Netherlands, Portugal, Romania, and Sweden.
- The OECD has issued further clarification on the Consolidated Report on Pillar 2 Amount B. Amount B provides a simplified and streamlined approach to applying the arm's length principle to in-country baseline marketing and distribution activities. The document contains nine questions and answers that address technical issues and clarify frequently asked questions from stakeholders. At the same time, an updated pricing automation tool for these activities has been published, which now contains all the data necessary for the implementation of Amount B in 2026, including information on country credit ratings.

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- As of 17 February 2026, there are a total of 27 countries on the OECD list of countries that have signed a multilateral agreement on the automatic exchange of information under the GloBE rules (GIR MCAA, Pillar 2). Australia and Canada have recently been added. The agreement is intended to ensure the submission of a single GloBE Information Return and their subsequent exchange, even in relation to countries outside the EU.

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