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Editorial

The first spring issue of our Tax and Legal Update is right in front of you. The same cannot be said about Brexit, as its fate is still uncertain, which affects business environment not only in Europe but elsewhere.

Nonetheless, whereas the legislative process in the UK has significantly been paralysed by the Brexit show, in our part of the world we now have the 2019 tax package at our disposal, published in the Collection of Laws. This issue of the update in detail summarises the major changes arising from the tax package, such as higher limits of expenses that businesses can claim as a fixed percentage, the implementation of certain other changes to EU regulations relating to, e.g., aggressive tax planning and VAT. While one tax package has entered into effect, another one is being prepared by the Ministry of Finance for 2020. Hence, we will still have something to look forward to.



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Taxes

2019 amendment to VAT Act: summary of major changes, vol. 2

Over the last year, in our Tax and Legal Update, we have discussed the changes to VAT that are part of the 2019 tax package many times. The final version of the amendment is on the table now, giving us the chance to summarise the major changes and applicable dates once again. The tax package was published in the Collection of Laws under No. 80/2019 and is effective from 1 April 2019.



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It has been possible to use the direct effects of the EU VAT Directive and apply the amended provisions on vouchers and electronically supplied services (certain simplifications regarding mini-one-stop-shops) from 1 January 2019; this was communicated by the Czech tax administration earlier this year. The majority of other changes became effective on 1 April 2019.

Major changes include, for example, a new duty to state the date of supply on corrective tax documents or make every necessary effort to deliver a tax document to the supply recipient or determine the date of supply for lease-related services as the date on which the amount being rebilled is known.

The amendment also introduces the duty to monitor significant repairs of real property costing more than CZK 200 thousand (excl. VAT) and to correct the entitlement to VAT deduction originally claimed where the real property is sold exempt from VAT within a period of ten years. The decisive factor for the taxpayer is when the repair started and ended. If it started before the amendment's effective date but ended after this date, the taxpayer may decide whether to adjust the deduction.

The changes designed to unify the amount of tax using either the top-down vs. the bottom-up calculation approach and relating to tax rounding also become effective from 1 April. Nonetheless, based on transitory provisions, it is possible to proceed in compliance with the "old" rules in the subsequent six months, providing sufficient time for the necessary adjustment of accounting and invoicing systems.

Enough time should also be granted to lease companies, since changes to the classification of leases (depending on whether it involves the delivery of goods or the provision of services) will not become effective sooner than 2020.

The effective date will be postponed even further concerning the categories of leases that can be subject to output VAT. Provisions according to which the lease of buildings in which at least 60% of the floor area is used for residential purposes may not be regarded as liable to but as exempt from VAT will not come into effect earlier than in 2021.

Changes relating to the VAT regime of statutory representatives and price subsidies were cancelled during the legislative process. These VAT areas therefore remain unchanged.

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Changes to income tax after 2019 amendment

The long-awaited tax package entered into effect on 1 April. Legal entities will primarily have to cope with changes to withholding tax, borrowing costs and cross-border transactions; individuals, on the other hand, will mostly be affected by changes to expenses claimed as a percentage of income and withholding tax.



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Corporate income tax

- The amendment introduces a new duty to report payments abroad that are subject to withholding tax even if these payments are exempt from tax or not liable to tax based on a relevant double taxation treaty. Payments of one type to one recipient not exceeding CZK 100 thousand a month constitute an exception.
- The implemented EU Anti-Tax Avoidance Directive (ATAD) introduces the following:
  - Restricted deductibility of borrowing costs from transactions with related and unrelated parties exceeding the limit of excess borrowing costs, which is the higher of 30% of earnings before interest, tax, depreciation and amortisation (EBITDA) or CZK 80 billion in a taxation period. The existing rules limiting the deductibility of borrowing costs due to thin capitalisation remain in force for all taxpayers. The new rule is also applicable to financial instruments contracted before 1 April 2019.
  - CFC rules, i.e. rules for the taxation of income of a foreign company controlled by the Czech controlling company where the foreign company does not carry out any substantial economic activity and its tax liability abroad is lower than one half of the tax liability that such company would have had if it were taxed under Czech tax laws.
  - Exit taxation, i.e. taxation of the relocation of assets without a change of ownership (e.g. when a Czech tax resident transfers assets to its foreign permanent establishment or when a Czech tax resident changes its tax residence).
  - Taxation of profits or deduction of losses on equity securities voluntarily classified as securities measured at fair value through equity (IFRS 9), by adjusting the taxpayer's tax base.
  - A new manner of taxation of revenues from equity certificates measured at fair value.
  - Rules neutralising the effects of hybrid mismatch arrangements, such as a 'double deduction', when one amount reduces the tax base in more than one jurisdiction, or a 'deduction without inclusion', when the tax base is reduced in one jurisdiction without the same amount being included in the tax base in another jurisdiction.

Personal income tax

- For entrepreneurs, the limits of income decisive for claiming expenses as a percentage of income have again been increased. The new limits will be applied already for the 2019 taxable period.
- In connection with the increase of the income decisive for mandatory participation in sickness insurance of employees to CZK 3 000 monthly, the amendment adjusts the provisions relating to withholding tax. This tax will be applied to income of up to CZK 2 999 monthly generated by taxpayers who have not signed their payroll tax statements. This provision will become effective on 1 May 2019 and may be applied for the first

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time upon the settlement of wages for May 2019, i.e. in June 2019.
- The new duty to report payments abroad applicable to legal entities now also applies to individuals.

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Taxes

Last call to participate in Employment Operational Programme: support for employee education

On 15 March 2019, the Ministry of Labour and Social Affairs announced a new call to participate in a programme supporting the professional education of employees relating to IT, languages, soft skills, and professional skills. This call is likely to be the last one in this area. Aid can be obtained by all businesses in the entire Czech Republic, including Prague; the only geographical restriction is that the training itself may not be carried out in the capital. Applications will be accepted until 15 May 2019.



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Support will be provided in respect of the following areas:

- general IT
- soft and management skills
- languages
- specialised IT
- accounting, economic and legal training
- technical and other professional education
- internal lectureships (expenses for internal lectureships may not exceed 20% of a project's total eligible expenses).

Expenses incurred for educational courses organised to meet binding domestic regulations such as fire protection, first aid or driver's training and other similar training are not eligible for support.

The level of aid provided to large businesses may amount to up to 50–85% of eligible expenses, depending on the regime in which public aid will be drawn. A project's eligible expenses have to be at least CZK 500 thousand but not more than CZK 10 million.

To evaluate whether the call is suitable for your company, it is crucial to assess the following criteria (including the maximum potential for scoring points):

- share of participants in the total number of employees (25 points)
- share of participants older than 54 years in the total number of participants (25 points)
- applicant's registered office in a structurally affected region (10 points)
    - these regions include the Ústí nad Labem, Moravia-Silesia and the Karlovy Vary regions
- relationship between the total number of participants and a project's total eligible expenses (40 points).

A number of other parameters and conditions have been set as well. We will be happy to provide you with more detailed information or to review the eligibility of your company's programme. We can also help you prepare

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a project application.

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Czech reporting of cross-border transactions

The Ministry of Finance has submitted a draft amendment to tax legislation for 2020 for comments. The amendment includes, among other things, the implementation of DAC 6 and the introduction of reporting duties relating to selected cross-border transactions, giving us a clearer idea what direction the Czech concept of cross-border transaction reporting should take.



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The Czech implementation derives from the conditions and definitions set out in Directive on Administrative Cooperation (DAC) 6. The characteristic features (hallmarks) and the main benefit test will be regulated by a new decree of the Ministry of Finance; however, the definition of a cross-border arrangement will not be determined there. A stricter approach has been proposed regarding one hallmark: payments to related parties seated in jurisdictions with zero or very low taxation should always be reported, irrespective of whether the main benefit test has been met.

The reporting duty will affect not only cross-border arrangement intermediaries (typically various advisors but, under certain circumstances, also financial institutions or servicing companies within a group of companies) but also users themselves, i.e. taxpayers. The draft does not interfere with the confidentiality obligation applicable to tax advisors and lawyers under their chamber regulations. These will only have to inform their client that the client as the arrangement user must report such an arrangement themselves. Taxpayers will have to report cross-border arrangements in the extent in which other intermediaries do not report them, as they are bound by their obligation of confidentiality or were not involved in the implementation of such an arrangement.

Reporting includes information about arrangement intermediaries and users as well as details regarding met hallmarks, content and value of arrangements, and information about regulations and international treaties that form the basis of an arrangement. The Ministry of Finance will issue prescribed forms for this purpose. The deadline for making a filing will be 30 days of the earlier of the date an arrangement is available for implementation, the date an arrangement is ready for implementation, or the date the first step to implement it was made. The new reporting duty will apply retrospectively to all arrangements whose first implementation steps were taken after 25 June 2018. Information regarding arrangements reported on a retrospective basis should be filed by the end of August 2020.

The new reporting duty is also associated with a duty to archive related documentation over a period of 10 years. A penalty of up to CZK 1.5 million may be imposed for the violation of the duty to report an arrangement; up to CZK 500 thousand for the violation of the duty to archive relevant documentation. The same penalty amount may also be charged to tax advisors and lawyers for their failure to inform their clients about their duty to report.

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Financial market about to change

In mid-February, an amendment that may bring significant changes to several financial market segments was submitted to the Chamber of Deputies. What are the amendment's major points? What should entities operating in the financial market prepare themselves for?



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The first amended law is the Capital Market Undertaking Act. Owing to the upcoming effectiveness of the EU Prospectus Regulation, the public offerings of investment instruments will mostly be regulated using this regulation. The Capital Market Undertaking Act will only include rules defining the liability for a prospectus' content and the reporting mechanism. Penalties for the failure to comply with the legal provisions on public offerings will be much stricter: for such violations, penalties that may exceed CZK 18 million will be imposed on individuals and CZK 130 million on legal entities.

The Act on Ancillary Pension Savings will also be amended dramatically: the ancillary pension savings segment will be harmonised with other financial market segments, and entities authorised to mediate ancillary pension savings schemes will be widely restricted. According to the amendment, only independent intermediaries and tied representatives having a licence under the Act on Ancillary Pension Savings will be allowed to mediate ancillary pension savings. The introduction of these new types of entities will change the current practice under which it is sufficient for a person having a licence under other acts regulating the financial market to extend their existing licence. This change will affect all existing ancillary pension savings distributors.

The Act on Investment Companies and Investment Funds will offer a less strict regulation applicable to unit-holders' meetings, whose competence and decision-making rules will fully be determined by an investment fund's statutes. The market welcomes this change, as it brings the functioning of funds closer to the functioning of corporations.

An amendment to the Act on Investment Companies and Investment Funds also introduces a change to the rules for issuing and purchasing units. A two-year maximum period has been introduced to suspend the issue or purchase of units by qualifying investor funds that are open-end unit funds. This is also positively perceived, as it removes interpretation uncertainties regarding the suspension in issuing and purchasing units by qualifying investor funds.

The Act on Investment Companies and Investment Funds also introduces the investment fund promoter, an entirely new office held by the person with the right to decide on a fund's manager, administrator and depositor, including the right to dismiss and replace these persons. The promoter will be established by the investment fund's statutes; funds established before the amendment's effective date may establish the office of promoter through a decision made by the majority of persons holding ownership interests in the fund.

The amendment may have a significant impact on entities operating in the financial market. If passed by deputies, we recommend analysing the amendment's effects on the provision of financial services.

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What expenses are reasonably incurred when mortgage loans are repaid prematurely?

In early March, the Czech National Bank published its opinion on expenses that can be regarded as reasonably incurred in connection with the early repayment of a consumer loan for residential purposes. What are the CNB's views on this? Shall we expect any significant changes to their calculation?



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In its opinion, the CNB decided to harmonise the practice in the mortgage loan market, as individual providers have been requesting various types of expenses associated with the premature repayment of loans from their customers upon early repayments.

According to the CNB, reasonably incurred expenses are expenses that in their substance are necessary and whose amount can be justified for each particular case. Unjustified travel expenses or expenses for redundant meetings with customers therefore do not meet the above criterion.

The CNB also believes that expenses not affected by whether (and when) a customer decides to repay a loan prematurely do not meet the criterion of expenses associated with premature repayment. This primarily involves expenses relating to commissions paid by the loan provider to the mortgage loan intermediary, which used to be quite common. Such commissions represent expenses that have been incurred to conclude a loan contract but are not associated with premature repayment. The same applies to expenses incurred in connection with a decrease in the creditor's interest revenue or interest expense arising from the creditor's debt.

The CNB specifies that only expenses that have been provably recorded in the creditor's accounting books will meet the applicable criteria. This excludes intercompany expenses incurred, for example, by one department in favour of another department of the creditor or expenses arising from internal interest rate swaps. On the other hand, eligible expenses will primarily be expenses for a proportionate part of the salary of the employee handling the application for the premature prepayment, or fees paid to the Real Estate Cadastre.

The CNB concludes that other expenses may also be charged to the customer but must have been incurred reasonably and with due managerial care, as a due manager should take into account that customers may exercise their right of premature repayment.

Entities providing consumer loans for residential purposes should therefore evaluate the manner in which fees for premature repayments are calculated and adjust them appropriately where necessary. It should also be assessed whether it is necessary to adjust related contracts with intermediaries.

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Transfer of garage parking place without pre-emptive right again?

The government approved and submitted to the parliament another amendment to the Civil Code, which prescribes, among other things, an exception from the pre-emptive right to a co-owner's share in real property in certain cases of residential co-ownership. The amendment is proposed to be effective from 1 January 2020.



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Not long ago, our lawmakers re-established the pre-emptive right to real property in co-ownership into the Czech legal order, which has brought serious problems where co-ownership involves a unit with a defined garage parking place (or a cellar cubicle) that is usually associated with another unit's ownership.

Garage parking places are usually co-owned by a larger number of persons and, as a result, to meet the legal requirements as to the pre-emptive right is practically unfeasible. To mitigate the risk that another co-owner exercises their pre-emptive right, the seller's transaction documentation often includes various complex arrangements, such as the overestimation of the purchase price of a parking place or encumbering a parking place with the right of use. This may have resulted in a higher tax burden for all parties to the transaction.

According to the proposed amendment, the pre-emptive right should not be exercised where the transfer involves a co-owner's share in a non-residential unit (or real property that is in terms of its function associated with real property divided into units), but only provided that such a share is transferred along with another unit (either residential or non-residential) related to one another in terms of function.

Consequently, after 1 January 2020, where a co-owner's share in a garage is being transferred along with a function-related unit, the seller need not offer their share to the other garage co-owners. If, however, only a share in a garage or a share in a residential unit is transferred separately, the pre-emptive right concept remains in place.

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Partial termination notices for employees performing several types of work

In a case before the Supreme Court of the Czech Republic, an employee did not meet the legal pre-requisites for performing direct pedagogical activities, and was therefore given a notice of termination by the employer. However, other types of work such as driver/serviceperson were also specified in the employee's employment contract. The Supreme Court contemplated whether it was possible to give a partial termination notice to the employee in this case, i.e. a termination notice for only one type of work.



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The Supreme Court summarised the lower-instance courts' decisions on whether the employee had met the legal pre-requisites for performing direct pedagogical activities. It also highlighted that in assessing this case, it was necessary to take into account that another type of work had been specified in the employee's employment contract and that the type of work formed an essential element of the employment contract. The law allows the listing of several types of work in an employment contract, i.e. employers may assign work corresponding to any of the contracted types to their employees, in the agreed extent. If the employer can assign another type of work than the one for which the employee does not meet the legal pre-requisites, there are no grounds for giving notice to the employee. The employer may not give notice to an employee not meeting the legal pre-requisites only in relation to one of the agreed-on types of work.

According to the court, a termination notice for one type of work does not represent an act resulting in the termination of employment within the agreed extent but an act leading to a unilateral change to the employment contract. However, the Labour Code allows for such a change only in the case of a mandatory assignment of an employee to another type of work for a necessary period of time. A unilateral change to employment made by the employer using a notice is therefore null and void for its variance with the law and public order.

If the employee does not meet the pre-requisites for performing one type of work and the performance of another type of contracted work within the agreed extent is not needed by the employer, we recommend that the employer offer to the employee an agreement to change the content of employment. If the employee does not agree, this could meet the grounds for giving a notice of termination of employment to the employee for redundancy, provided that other statutory conditions have also been fulfilled.

Taking into account the above court decision, we recommend that employers who consider offering employees one employment contract involving several types of work with a clearly defined scope (i.e. the number of working hours for individual types of work) instead conclude two employment contracts. The agreed types of work would thus be performed by the employee via two side-by-side employment relationships whose commencement, change and termination could be dealt with separately.

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New EU regulation on public documents - the end of apostilles in EU

In mid-February, a new regulation on public documents in the European Union (No. 2016/1191) entered into effect, aimed to promote the free movement of persons within the EU by simplifying the requirements for presenting certain public documents, since it exempts some public documents from the legalisation requirement (i.e. certifying the authenticity of a signature or the identity of the seal or stamp) and from authentication via an apostille. It also introduces multilingual forms.



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The situation in the EU has so far been relatively unclear because of various international multilateral or bilateral agreements in force. For example, if a foreign national (an EU citizen) wanted to become a statutory representative in a limited liability company in the Czech Republic, such a foreign national had to prove that they had not been subject to any criminal prosecution, which required meeting various requirements depending on the foreign national's citizenship and registered place of residence. This led to relatively absurd situations with German citizens having to submit an extract from the Criminal Register along with a translation into Czech and an apostille (which usually took several days or weeks to obtain, all the while incurring substantial expenses), and, Austrian citizens, based on a bilateral international treaty between the Czech Republic and Austria, only having to present a similar document without an apostille.

The new regulation's objective is to enhance transparency in this respect, at least partially. Legalisation and apostillation will not be required for certain public documents (listed in the regulation) on a civil status issued by a body of one EU member state to be used by a body of another EU member state. These rules will apply both to document originals and their verified copies but not to copies of verified copies.

The regulation also simplifies the translation of public documents, as it introduces multilingual standard forms, aimed to replace public document translations with these forms. Nevertheless, administrative bodies are still left with the option to decide that a translation is necessary where information in the multilingual form is insufficient. It will therefore always be necessary to verify with the appropriate administrative body that the use of a multilingual form for a specific public document is adequate.

In our opinion, the regulation simplifies and enhances the transparency of using public documents to some extent; however, the regulation does not deal with many other situations, such as obtaining an extract from the Commercial Register when carrying out cross-border business operations. However, it is positive that the regulation already takes into account simplifications planned for 2021 regarding the authentication of a wider scope of public documents relating to, among other things, the legal status and representation of corporations and documents certifying the achieved qualification. According to the regulation, a direct electronic system for handing over public documents between member states should also be created to prevent any fraudulent behaviour.

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9 major tax changes in case of no-deal Brexit

The planned date of Great Britain's withdrawal from the EU set for 29 March 2019 has been postponed. However, a British proposal for postponement until 30 June 2019 has not been approved by the EU27. Below we summarise the major potential impacts of a hard Brexit.



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In terms of the number of votes cast in the British parliament, March really was abundant. In the first half of March, Prime Minister Theresa May first let the second vote be held on a Brexit withdrawal agreement. Then, the parliament decided on whether Great Britain should exit the EU without a deal. And, the third time around, the parliament resolved to delay Brexit, which resulted in Great Britain having to ask the EU to postpone Brexit until 30 June 2019. But the EU member states did not confirm this date.

The European Council agreed to an extension until 22 May 2019, provided the withdrawal agreement is approved by the House of Commons no later than 29 March 2019. As the agreement was rejected for the third time, Brexit was only postponed until 12 April 2019. Before this date, Great Britain must also announce its plans on whether it intends to participate in the May 2019 European elections.

British MPs are currently looking for an alternative plan, but voting has so far not brought any progress, as parliament failed to approve the continuance of a permanent customs union with the EU by only three votes. If a consensus is not reached, a hard Brexit may occur on 12 April. The European Commission has therefore completed its preparations for a no-deal Brexit and has adopted a number of temporary emergency measures. However, these are only unilateral.

In the case of a no-deal Brexit, the UK will become a third country to the EU without any temporary arrangements. The major implications would be as follows:

1. Exports and imports will take the place of intra-community supplies and acquisitions.
2. The duty to submit Intrastat declarations and EC Sales Lists regarding transactions with Great Britain extinguishes.
3. EORI, customs permits and licences issued in Great Britain will cease to be valid.
4. EU goods of British provenance might be regarded as non-originating.
5. Limits for dispatching goods will cease to apply, resulting in the necessity to register as a VAT payer in the country in which goods are received.
6. Consignments of negligible value will no longer be exempt.
7. It will not be possible to apply for a refund of VAT paid in the UK via an e-portal.
8. Registration through the Mini-One-Stop-Shop will not be valid in the UK.
9. The EU rules for triangular transactions will not apply if a UK tax resident takes part in the transaction.

The EU rules for triangular transactions will not apply if a UK tax resident takes part in the transaction.

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Bank's branch's full entitlement to VAT deduction

In case no. C - 165/17 Morgan Stanley & Co International, the Court of Justice of the EU (CJEU) provided an opinion on how to view an entitlement to a deduction of VAT on supplies received by a bank's branch. This involved a case when supplies were also used by the principal establishment to effect VAT-exempt supplies.



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A branch of an investment bank in France received supplies intended for internal use and for the needs of its principal establishment in Great Britain. The branch opted to tax the services provided to its clients in France in accordance with French legislation. Simultaneously, services provided by the headquarters seated in Great Britain were treated as exempt from VAT without the entitlement to VAT deduction.

The French branch claimed the full entitlement to a deduction of VAT on the supplies at issue. It assumed that it had been providing partly taxable supplies to its customers and partly supplies with the entitlement to VAT deduction to its incorporator. The French tax administrator denied the branch's entitlement to deduction, claiming that the branch and the incorporator represent a single person liable to VAT and that the received taxable supplies were partly used in respect of supplies that are exempt from VAT without the entitlement to VAT deduction.

In part, the CJEU sided with the French tax administrator: the branch and the incorporator must indeed be regarded a single person liable to VAT and, as a result, supplies giving rise to entitlement to VAT deduction do not occur in transactions between these two entities. However, the CJEU did not reject the claimed entitlement to VAT deduction.

When assessing the entitlement to a deduction of VAT on supplies used by the principal establishment, it is according to the CJEU necessary to take into account the VAT regime that would be applied if the output transaction had been carried out in France. The branch had opted beforehand that it would tax its services in France; consequently, it is entitled to a full deduction even if the received supplies were partly provided in connection with VAT-exempt supplies without the entitlement to VAT deduction in another EU member state.

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Case law

Guidance on determining beneficial ownership: part two

The Court of Justice of the EU issued judgments in a number of cases dealing with beneficial ownership for EU directive purposes. The cases at issue mostly involved the application of an exemption from withholding tax on dividend and interest payments received by holding companies. The CJEU's opinions very much vary from the Advocate General's standpoints.



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As discussed in the April 2018 Tax and Legal Update, in all the above cases the Danish resident applied with the tax administrator to exempt dividend/interest payments from withholding tax in compliance with the directive on the common system of taxation applicable in the case of parent companies and subsidiaries of different member states (the Parent Subsidiary Directive) and the directive on the common system of taxation applicable to interest and royalty payments made between associated companies of different member states (the Interest and Royalties Directive). The Danish tax administrator denied the exemption, arguing that the payment recipient was a conduit structure and could not be considered the beneficial owner of the received dividend/interest. In connection with this, the Danish courts subsequently also asked the CJEU to clarify whether Denmark may apply the beneficial ownership concept to deny the benefits of the EU directives and requested clarification on the applicability of the OECD's Commentaries on the Model Tax Convention or the relevant provisions of individual double taxation treaties between the appropriate states in this respect.

In its judgments (C-116/16, C-115/16), the CJEU held that the exemption of interest payments from any taxes set out by the Interest and Royalties Directive is applicable only to the beneficial owners of such interest, who were defined by the court as entities that generate economic benefits from the received interest and may freely determine how these will be utilised. The beneficial owner must receive this income for its own use, i.e. may not act as an intermediary for another person.

Contrary to the Advocate General's opinion, the CJEU believes that the Model Tax Convention including the commentaries and relevant double taxation treaties can be used to interpret the beneficial ownership pursuant to the Parent Subsidiary Directive and the Interest and Royalties Directive, since the beneficial ownership concept derives from the Model Tax Convention. The member state does not have to identify the beneficial owner of income to be able to deny the beneficial ownership or prove the abuse of right.

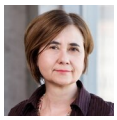
According to the CJEU, the abuse of right requires firstly a summary of objective facts indicating that despite meeting legal conditions on a formal level, the objective of the relevant law has not been achieved and, secondly, a subjective element involving the intention to obtain advantage from the EU law. Such facts may, for example, include the existence of conduit structures lacking economic grounds.

In contrast to the Advocate General's opinion, the CJEU believes that the absence of a local standard regulating the abuse of right is not a key problem, as domestic bodies must apply a general EU law principle, according to which legal entities may not fraudulently or abusively apply EU legal regulations, and also confirms that EU fundamental freedoms cannot be relied upon where the abuse of right or a fraud are involved.

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Latest news - April 2019

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



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HOME NEWS IN BRIEF

- Act No. 74/2019, regulating certain relationships in connection with the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union, to become effective on the date of a no-deal Brexit, was published in the Collection of Laws.

- On its website, the General Financial Directorate published its Information on Tax Overpayments and Information on Calculating Spouse's Income to Apply a Tax Credit.

- On 1 April 2019, the Ministry of Justice provided full access to public registers' open data. These can be searched using a number of criteria and users may export the search results in several formats. On its website, the ministry informs that data will be delivered gradually in data sets by years.

- The 2019 tax package substantially postpones the deadlines for preparing and approving a project (its project documentation) until the end of the time limit for filing a tax return for the period when the taxpayer first claims a research and development allowance for the given project. Under the new rules, taxpayers must notify the tax administrator of their intention to claim a research and development allowance for a particular project before the project commences. If they fail to do so, they will not be allowed to include expenses incurred for the project solution in the allowance.

- The Ministry of Finance submitted a bill to amend certain tax laws in connection with the implementation of EU regulations (the 2020 tax package) for the external comment procedure. The 2020 tax package contains changes effective from 1 January 2020 and includes amendments to the Income Tax Act (ATAD), the VAT Act (quick fixes), the Excise Duty Act, and the Act on International Cooperation in Tax Matters, and a technical amendment to the Act on Special Court Proceedings (DAC 6).

- The Chamber of Deputies passed an amendment to the Senate's statutory measure on immovable property acquisition tax, extending the existing scope of exemption from this tax from cases involving the first acquisition for consideration of an ownership title to a unit in a residential house also to cases involving the acquisition of an ownership title to a unit in a family house.

WORLD NEWS IN BRIEF

- Finland has joined the countries that have deposited their ratification documents relating to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (the "MLI") with the OECD, the depository. Finland will therefore start applying the adopted measures in its treaties with countries that have already ratified the MLI (such as Australia, France, Japan, Poland, Austria, Slovakia, Great Britain, Ireland) from 1 June 2019. The ratification of the MLI in the Czech Republic is currently awaiting approval by the Chamber of Deputies.

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- On 12 March 2019, ECOFIN (the council of finance ministers) discussed certain tax matters and approved, among other things, an amendment to VAT rules for e-commerce, effective from 2021. The council also agreed to expand a list of non-cooperative jurisdictions to a total of 10 countries (Aruba, Barbados, Belize, Bermuda, Dominica, Fiji, Marshall Islands, Oman, United Arab Emirates, Vanuatu). An agreement to implement a digital tax was not reached.

- At its session of 26 March 2019, the European Parliament adopted a final report on financial crimes, tax evasion and tax avoidance. The report contains, among other things, recommendations for new rules enhancing the administrative cooperation in tax matters and for establishing new European and global bodies dealing with these issues.

- The OECD disclosed an instrument to determine beneficial owners, i.e. a beneficial ownership toolkit, prepared by the OECD Global Forum on Transparency and Exchange of Information in cooperation with the Inter-American Development Bank. The toolkit should help governments implement the Global Forum's standards aimed at enforcing the laws in the area of determining the beneficial owners of corporations and trusts to prevent criminal activities hidden behind legal structures.

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