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Editorial

Dear readers,

The tax administration has decided to adopt one more regulation to make people more willing to fulfil their tax duties duly and in time. Starting from December, the authorities will have their eye on those whose assets have grown by more than CZK 5 million compared to their incomes as recorded in their tax returns.

I would also like to draw your attention to the announcement of new calls for subsidy applications. Under the Energy Savings programme, large companies will get the biggest chance to obtain funding. The key factors in other programmes, as was inferred from a debate at one of our seminars, will not only be the quality and precision of completed full applications but also how early they are filed. Hence there is no time to lose. My colleagues have summed up the highlights in the TRIO programme and OP EIC.

Speaking of innovations, we have upgraded the Tax and Legal Update and beginning with this issue, you can also find it at Danovky.cz with a full text search option. You can easily open individual articles in your browser or download their full pdf versions. We believe that you will welcome this upgraded version.

Have a successful month.



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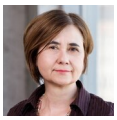
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First step towards a new EU list of third country jurisdictions

On 12 September, the European Commission presented a scoreboard of third country jurisdictions containing indicators monitoring their tax administrations' best practices. It is the first step towards a common EU list of uncooperating jurisdictions. The European Commission hopes it will unify the rules of approach in the area, and help tackle aggressive tax planning taking advantage of the differences between taxation systems of individual member states.



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The risk indicators concern, for instance: tax system transparency and exchange of information; the existence of preferential tax regimes; no corporate income tax or a zero corporate tax rate. They should help the EU assess the potential risk level of jurisdictions facilitating tax avoidance.

Based on the scoreboard, EU member states will be able to decide which third countries to formally screen for their good tax governance. This second stage should start early 2017. The screening will be carried out by the European Commission together with the Code of Conduct Group. Within this stage, the EC will communicate with the third country jurisdictions in question to allow them to react to any concerns raised by EU member states regarding lack of cooperation in the tax area.

Once the screening process is complete, the last stage will follow – listing. Countries that refuse to cooperate with the EU regarding good tax governance will be put on an EU list. The EC intends to publish this list at the end of 2017.

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AML rules even stricter

The transposition of the new EU directive on the prevention of the use of the financial system for money laundering or terrorist financing purposes is far from complete. However, the European Commission has already submitted a proposal further tightening the rules.



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The requirements of mentioned (fourth) Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 (the AML Directive), will be transposed into Czech legislation by an amendment to Act No. 253/2008, on Certain Measures against Legalisation of Proceeds from Crime and Terrorist Financing (the AML Act). The amendment to the AML Act is currently waiting to be discussed in the Czech Senate and foresees numerous changes. However, the European Commission is already working on even stricter rules.

For instance, the proposed amendment to the AML Directive considers platforms for the exchange of virtual currencies also to be obliged entities and sets maximum limits for transactions in some prepaid instruments. Apart from that, it empowers some financial intelligence units – in the Czech Republic the Financial Analytical Authority – to request information potentially concerning money laundering and terrorist financing from any obliged entity; under the proposed amendment, financial intelligence units should also be able to obtain information on bank accounts.

The proposed amendment to the AML Directive introduces a new approach also as regards information on beneficial owners, i.e. individuals who may, factually or legally, exercise control over legal entities. The amendment to the Czech AML Act transposing the AML Directive stipulates the record keeping of beneficial owner information as an auxiliary tool to meet an obliged entity's duties under the AML Act. Although the records will be kept within the existing public register system maintained by the registration courts, they will not be publicly available at the moment; the records will be accessible in a different regime and only to bodies and entities specified by law. However, under the amended AML Directive, beneficial owner information should under certain circumstances and to a limited extent be publicly accessible.

Record keeping of information on beneficial owners of trusts, also required under the AML Directive, is provided for by an amendment to the Civil Code. The deputies practiced more restraint here, and the amendment so far has only passed the second reading, nearly a year since it was first submitted. However, the European Commission has now suggested that member states should implement the legal framework defined by the fourth AML Directive by 1 January 2017 at the latest, so that they can get ready for further changes ahead.

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Stability of insurance companies enhanced?

An amendment to the Act on Insurance implementing, inter alia, the Solvency II Directive into the Czech legal system, was published in the Collection of Laws under No. 304/2016. This legislative change mainly aims to enhance the financial stability of insurance and reinsurance companies and increase the protection of their clients. It also harmonises rules for the performance of these activities within the European Single Market and expands the Czech National Bank's competencies as a supervisory body. The Act on Insurance Intermediaries and Loss Adjusters has also been amended.



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These legislative changes aim to unify the risk and capital management systems of insurance companies throughout the EU. Insurance companies, which are authorised to carry out their businesses in the EU based on the EU single passport similarly as banks, will be able to apply their internal processes globally, thus harmonising their internal procedures. In the long term, this may save expenses incurred for these internal activities.

In contrast, insurance companies have expressed concern about the elimination of or the ban on associated activities. In accordance with the new legislation, insurance companies will no longer be allowed to carry out activities associated with insurance, including, for example, intermediation of other financial services (e.g. loans). The Ministry of Finance claims that this complies with the requirements set by Solvency II, according to which member states should ensure that all insurance companies applying for a permit restrict the scope of their business activities to insurance activities and operations directly related to insurance, eliminating any other business activities. However, the content of activities directly related to the permitted activities has been a matter of controversy. The question therefore arises what activities will actually be performed by insurance companies in the future. A feeling of uncertainty persists among insurance businesses as to whether the above changes on top of the proposed restriction of permitted activities may not end up threatening their stability.

An amendment to the Act on Insurance Intermediaries and Loss Adjusters has been adopted along with the amendment to the Insurance Act. According to this amendment, insurance intermediaries will only be entitled to a proportionate part of their compensation when an insurance contract is terminated prematurely for reasons other than a reported claim, provided that this happens within five years from the date on which it was concluded. In addition, when calculating a surrender value, insurers will have to spread the acquisition costs over a period of five years from the insurance policy inception date or over the entire insurance period, if shorter. This may increase the surrender value paid to policy holders upon termination of insurance. The above changes will affect insurance contracts concluded after the effective date of this amendment.

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Taxes

Second call for the TRIO programme

In early October, the Ministry of Industry and Trade announced a second call for participation in the TRIO programme, designed to support projects focusing on industrial research and experimental development relating to key technologies. Companies operating in Prague may also apply this time. Below we summarise the most important information.



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TRIO programme applications will be accepted electronically from 4 October 2016 to 30 November 2016. Projects may receive a subsidy of up to CZK 20 million. Large companies may obtain 25-65% of eligible costs depending on the category of activities (industrial research or experimental development).

Activities eligible for support and eligible costs
The programme will support industrial research and experimental development activities. Eligible costs will be those incurred for such activities from the date on which a particular project officially starts. This date may not occur before 1 January 2017. Eligible costs may involve:

- personnel expenses (primarily wages and statutory insurance payments);
- depreciation of tangible and intangible fixed assets;
- expenses related to materials, inventory, low-value tangible and intangible assets, repair and maintenance of fixed assets, all directly incurred in connection with the project;
- additional overheads.

Other conditions
The programme has also been designed for projects taking place in Prague.

Businesses may apply for support only provided that they carry out a project in efficient cooperation with at least one research organisation (e.g. university); this fact has to be supported with a relevant contract for cooperation. Efficient cooperation is understood to be cooperation during which the research institution bears at least 10% of eligible costs. The project must result in an output involving at least one binding result such as a utility or industrial design, prototype, functional sample, patent, partial operation or proven technology.

We will be happy to discuss with you any aspects of your project and related specific TRIO programme criteria.

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OP EIC - changes in the second call

An up-to-date timetable of calls for applications under the Enterprise and Innovations for Competitiveness Operational Programme (OP EIC) was disclosed on 21 September 2016. Below we summarise some of the changes made to the original timetable.



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The minimum allocation of funds per call has increased for the Energy Saving, Innovations and Applications programmes whereas the ICT and Shares Services programme shows a decrease in funds for distribution. The types of calls in which programmes are announced have also been amended: single-round calls for which the moment at which applications are submitted is not decisive but the evaluation of a project's scoring potential is most crucial, as disclosed in the original timetable, were changed to continuous calls with the moment of application submission the decisive factor. This mainly concerns the Energy Saving and Innovations programmes. According to available information, the governing body will be allowed to close both types of calls should the funds for allocation be exhausted only after five days or should the number of accepted applications exceed double the funds for allocation within a respective programme.

Changes in the OP EIC timetable are marked in orange in the table below.

Programme	Type of call		Call to be announced on		Applications to be accepted from/to		Minimum funds for allocation	
	Original	New	Original	New	Original	New	Original	New
ICT and Shared Services	single-round	single-round	9/2016	10/2016	10/2016 – 1/2017	10/2016 – 1/2017	CZK 4.2 billion	**CZK 3.45 billion**
Potential	single-round	single-round	10/2016	10/2016	11/2016 - 2/2017	11/2016 - 2/2017	CZK 1.3 billion	**CZK 1.5 billion**
Innovations – Innovation Projects	single-round	**continuous**	11/2016	11/2016	12/2016 - 3/2017	12/2016 - **4/2017**	CZK 2.5 billion	**CZK 5 billion**
Energy Saving	single-round	**continuous**	11/2016	11/2016	12/2016 - 4/2017	12/2016 - **3/2018**	CZK 6 billion	**CZK 11 billion**
Applications	single-round	single-round	12/2016	**11/2016**	1/2017 - 4/2017	**12/2016** - 4/2017	CZK 2 billion	**CZK 4.5 billion**

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EU harmonisation of voucher taxation

A new EU directive regulating vouchers was adopted in June. It aims to harmonise rules for the application of VAT on transactions with vouchers in the EU and eliminate the double taxation or non-taxation of these transactions. The new rules will be in effect from 1 January 2019.



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The EU issued a draft amendment to the Voucher Directive as early as in 2012. It generated a lot of discussion, as the rules applied throughout the EU vary significantly. It has thus taken more than four years for the final wording of the directive to be adopted. The new rules will be in effect from 1 January 2019; and member states should implement them into their legislation by the end of 2018.

The new regulation exclusively governs vouchers for the delivery of goods or the provision of services and excludes discount vouchers. Moreover, it will not affect VAT treatment rules applicable to bus/train tickets, air tickets, cinema tickets, etc.

The directive defines a voucher as an instrument containing in itself an obligation to accept the voucher as partial or full consideration for the delivery of goods or the provision of services. It should be clear from a voucher or related documentation what goods or services one may acquire. The voucher (or the related documentation) should also specify the identity of the potential suppliers. The directive also distinguishes between single-purpose and multi-purpose vouchers and determines rules for their taxation.

A single-purpose voucher is defined as a voucher where the place of supply (i.e. delivery of goods or the provision of services) and the amount of VAT are known at the moment of its issuance (e.g. a voucher for dinner at a restaurant). A multi-purpose voucher is defined negatively as a voucher that does not have a single purpose (e.g. a voucher to a shopping mall where the VAT rate on goods or services is unclear beforehand).

Each individual transfer of a single-purpose voucher is considered a separate delivery of goods or a separate provision of services. In contrast, the transfer of a multi-purpose voucher itself is not regarded as a delivery of goods or a provision of services; a supply is deemed effected only once certain goods or services are acquired in exchange for the voucher.

The new rules should apply to vouchers issued after 1 January 2019. The Czech Republic is responding to the changes in the treatment of vouchers with an amendment to the VAT Act (in effect from 1 January 2017) currently in preparation, also taking into account the EU Court of Justice's case law. According to this amendment, the duty to declare VAT on consideration received before effecting a taxable supply will arise once (i) the goods or services constituting the supply, (ii) the applicable VAT rate and (iii) the place of the future supply are known. This definition should thus correspond to the definitions and rules for the taxation of single-purpose vouchers embedded in the EU directive.

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Dealing with the biggest pain of VAT inspections

For a long time, during VAT inspections, honest businesses have mostly feared failing to prove the receipt of supplies from an uncontactable supplier or their supplier's involvement in VAT fraud without the recipient's knowledge. A recent Supreme Administrative Court judgement has indicated this area's future direction.



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Value added tax accounts by far for the highest additional tax amounts assessed by tax administrators. Understandably, VAT inspections are large corporations' biggest concern – apart from transfer pricing. Hence, keeping a close watch on the tax administrators' approach to VAT inspections and being ready for all possible tricks is highly recommendable.

A frequent reason for assessing additional VAT is a company's purported involvement in a chain of transactions with one of the preceding supplies affected by VAT fraud. It is extremely difficult for taxpayers to prove that they did not and could not have known of the involvement in fraud. In this respect, tax authorities make the recipient' s good faith conditional upon carrying out thorough checks of their suppliers, in fact bordering on detective work unthinkable in common business practice. Moreover, the legitimacy of such a tax administrators' approach has been repeatedly sanctioned by the Supreme Administrative Court, most recently in Judgement 7 Afs 136/2016. The SAC judges themselves would even go as far in checking the suppliers as making physical inspections at the suppliers' registered address or sending a message through a data box.

The situation may be slightly more favourable if the tax administrator claims that the taxpayer failed to prove the receipt of goods from the specific supplier declared on the tax document. Often, tax authorities make such proof of receipt dependent on a substantiation that the goods were physically handed over to and accepted by the taxpayer; frequently, they expect the statutory bodies of both parties to be involved in the handover and acceptance. Such requirements are virtually impossible to meet in practice, as goods are often received in documentary form or through shipping agents. Nevertheless, administrative courts have been taking into account the specificities of chain transactions and in their decision-making practice have started to challenge the legitimacy of such tax administrators' requirements. In Judgement 2 Afs 55/2016, the SAC admits that goods can be delivered by a specific supplier without a physical handover. The SAC has also repeatedly concluded that taxpayers cannot be requested to prove facts that are outside the sphere of their influence, for instance the manner in which suppliers obtained their goods. Even in this judgement, however, the SAC mentioned the possibility of denying the entitlement to VAT deduction on the grounds of involvement in fraud.

The described approach of the tax authorities should already be considered at the onset of a business relationship.

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This early it is worthwhile to thoroughly document any checks of suppliers. Then, once the tax administrator comes knocking, a detailed strategy should be at hand from the beginning of the inspection to be able to stand up to the tax administrators' unlawful requirements. We will be happy to assist you in this.

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SAC: To err is human even for accountants

The Supreme Administrative Court has finally and conclusively clarified the issue of applying the accrual principle to the taxation of accounting revenues by rejecting the retrospective current period taxation of revenues forgotten for many years. The SAC again confirmed that for taxation purposes it is vital to include revenues to the period to which they relate in terms of substance and time, irrespective of whether this period has already been closed.



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Errors that occur in the accounting books can in principle be corrected in the period in which they were identified. When an entity forgets to account for some taxable revenues, what will be the tax implications? The SAC's recent decision again offers a clear answer to this question.

In case No. 2 Afs 58/2015, the SAC discussed a forgotten tax provision to a receivable that was created by a bank in the early 1990s and should have been released already in 1993 as the receivable had been offset and therefore ceased to exist. As a result of an operational error, the provision remained in the system until 2008 when this inconsistency was identified and the provision in question released for accounting purposes. The forgotten revenue could not have been reflected in the tax for 1993 owing to the lapse period, for which reason the tax administrator refused to accept the bank's additional tax return for this period. This led to a dispute between the taxpayer and the tax authority over whether revenues from the release of the provision in question should be taxed in 2008.

The SAC agreed with the taxpayer's argumentation and concluded that revenues from the released provision relate - in terms of substance and time - to the period in which reasons for its creation ceased to exist and not to the period in which the provision was actually released for accounting purposes. If the provision was not released in the correct period, the taxpayer should have rectified the error in an additional tax return. The court pointed out that even the expiration of the right to assess additional tax for the period in which the provision should have been released does not justify the taxation of this error in a later period, as this would in its effect result in a tax duty with no time limits, which is entirely against the concept and purpose of lapse periods.

The court also drew attention to the criminal-law aspects of the case. In cases having similar merits some persons may also have criminal liability. It would have to be proved, however, that a provision was created and forgotten with the intention to evade paying taxes. The court thus warned the readers against such intentional "forgetfulness".

The court clearly and firmly states that, when identifying any errors in expenses (which did not raise doubts in the past) and revenues, it is always necessary to follow the accrual principle. Where an error relates to the period for which the time limit for assessing tax has not yet expired, the problem should always be resolved by filing an additional tax return.

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Deputies discuss amendment to VAT Act

An amendment to the VAT Act, planned to be in effect from 1 January 2017, is now discussed in its first reading at the chamber of deputies. Its original wording has changed slightly during the external comment procedure.



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The amendment repeals special rules on societies (formerly associations without legal personality). To fight fraud, it introduces a local reverse-charge mechanism to be applied to the provision of personnel for construction and assembly work and to various forms of forced delivery of property. The amendment also introduces a new type of taxable entity, the unreliable person, and expands the concept of liability for unpaid VAT so as to include instances in which consideration for taxable supplies is provided in a virtual currency. The new legislation also amends the definition of fixed assets and the same rules will now apply to both fixed assets acquired via finance leases and fixed assets acquired in a standard manner. The duty to settle a VAT deduction originally claimed on input has also been introduced with respect to unsupported shortages, destruction, loss or theft of asset items. Unit funds and investment fund sub-funds will be regarded entities liable to VAT. The greatest number of proposed changes relate to the definition of taxable supplies.

Duty to pay VAT on received advances
With reference to the Court of Justice of the European Union's decisions, the amendment specifies what information about a taxable supply must be known as at the date an advance was received to give rise to the duty to declare VAT before the supply is effected. The supply will be sufficiently specified if (i) the goods or services constituting the supply, (ii) the applicable VAT rate, and (iii) the place of supply are known. The requirement to include information about a person effecting the supply has been omitted from the amendment's original wording. This new taxable supply definition seems to comply with a new directive regulating vouchers, adopted by the European Council in June 2016. These changes should be integrated into the VAT Directive from 2019.

Re-invoicing of services
The original draft amendment relating to the re-invoicing of services specifies that the date of supply should correspond to the date on which a tax document is issued. This provision has been eliminated from the draft during the first reading at the chamber of deputies. Therefore, when re-invoicing services, taxpayers should continue to take into account the taxable supply date of the purchased services.

Supplies provided on a long-term basis
According to the original draft amendment, taxable supplies provided over a period longer than twelve months during which no consideration liable to the duty to declare VAT has been received should be regarded as effected no later than on the last day of each calendar year. The current wording of the draft amendment, however, extends this period to the last day of a calendar year following the calendar year in which the provision of supplies commenced.

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Case law

SAC: Tax administrators have to obtain a key witness statement

Has the tax administrator challenged the delivery of supplies or services on the grounds of your supplier being uncontactable? The Supreme Administrative Court in its recent judgment confirmed that the tax authority has to make all efforts and use all procedural means to ensure the hearing of a taxpayer's witness whose statement is of key importance to support the existence of supplies.



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In Judgment No. 4 Afs 32/2016-40, the court dealt with the approach of a tax administrator who had challenged the tax deductibility of expenses incurred on intermediary services rendered by an 'uncontactable supplier'. The taxpayer proposed that a witness be heard and provided the tax administrator with a telephone number and address. The witness, although not a fictitious person, managed to avoid all contact attempts. The tax administrator requested that the witness's local tax authority obtain the statement. Even though the witness had previously promised to do so over the phone, he did not show up to give a statement. Hence, the tax administrator made no further attempts to hear the witness and concluded that the taxpayer had failed to bear the burden of proof.

The SAC found the approach of the tax authority unacceptable. If a taxpayer proposes a witness statement that may be of key importance, and if such a witness is neither fictitious nor impossible to find, the tax administrator is obliged to make all efforts to obtain such a witness statement. Requesting another tax authority to hear the witness does not liberate it from this duty.

Tax authorities often take a rather lax approach to obtaining statements from uncooperative witnesses and do not use all legal possibilities available to them, such as having the witness brought in by the police. In such situations, it is necessary to actively request that the witness statement be obtained. The above judgment may be useful to support this.

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Starting in December: Proving the origin of assets

An act on proving the origin of assets has passed through the legislative process (321/2016 Coll.) The Senate made the original proposal even stricter by lowering the threshold for proving the origin of income to CZK 5 million. The Chamber of Tax Advisors has repeatedly criticised the act.



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Starting from 1 December 2016, tax administrators will have the power to call upon taxpayers to prove the origin of their income and other facts relating to increases in their assets, consumption or other expenditures. The precondition for such a call is the tax administrator's reasonable doubt whether the taxpayer's reported or asserted income corresponds to the increase in their assets or consumption. To justify the call, the difference between the reported income and the non-corresponding expenditure must amount to at least CZK 5 million, according to the preliminary opinion of the tax administrator.

Taxpayers' failing to conclusively prove the origin of their income will trigger a "special" tax determination mechanism. The tax administrator will assess additional tax on the income estimated based on selected indicators (such as a comparison against comparable taxpayers, transactions in bank accounts, etc.). At the same time, the taxpayer will be liable to a penalty of 50 or even 100% of the additionally assessed tax. Should the selected indicators not suffice to additionally assess tax, the tax administrator may call upon taxpayers to declare their assets.

According to the professional public, namely the representatives of the Chamber of Tax Advisors, the act has numerous deficiencies already pointed out during the comment procedure. In the chamber's opinion, the new legislation gives tax administrators an extremely powerful tool to also check the legality of taxpayers' other income apart from the income given in the tax return. Moreover, the act allows going further back into the past, when taxpayers were not required to keep records of such income and had neither the need nor the duty to save documentation. The tool may also result in tax administrators investigating taxpayers who have been turned in by the public – including begrudging neighbours or competitors.

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Case law

Right to deduct VAT without meeting the required essentials of a tax document

In September, the Court of Justice of the EU (CJEU) ruled on case C-518/14 Senatex GmbH. In the case, the tax administrator challenged the entitlement to VAT deduction based on tax documents that did not contain the tax identification number (VAT No.) of the persons for whom they were intended. The tax documents, declared in VAT returns in 2008 to 2011, were only corrected (VAT No. added) by the supply recipient in the course of a tax inspection in 2013.



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According to German legislation, correcting an invoice does not have a retrospective effect, and has an effect only once the corrected invoice is delivered to the person for whom it is intended. Thus, supply recipients may only exercise the right to deduct VAT once in possession of the corrected tax document containing the VAT No. The CJEU dealt with the issue whether this national legislation is compliant with the rules set by the EU VAT Directive.

The CJEU concluded that such an approach is not compliant with the directive. It ruled that the right to deduct VAT exercised based on a corrected invoice relates to the year when the invoice was originally issued and not to the year when the correction was made. Below we summarise the CJEU's main arguments:

- The EU VAT Directive provides for the possibility of correcting an invoice from which certain mandatory details have been omitted.
- The right to deduct VAT is an integral part of the VAT scheme and in principle may not be limited. It is meant to relieve businesses entirely of the burden of the VAT due or paid in the course of all their economic activities.
- The VAT neutrality principle requires the deduction of input VAT to be allowed if substantive requirements are satisfied, even if the taxable persons have failed to comply with some formal conditions.
- Holding an invoice meeting all essentials of a tax document is a formal condition.
- Member states have the power to lay down penalties for the failure to comply with the formal conditions for the exercise of the right to deduct VAT.

Thus, according to the CJEU, tax administrators should not deny the entitlement to VAT deduction based on invoices that do not meet all essentials of a tax document where such details are added subsequently. Despite this, we recommend paying proper attention to the obligatory details of a tax document.

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Concurrence of offices before the Constitutional Court

Even though in its new judgement of late September the Constitutional Court opined on the concurrence of the offices of chair of the board of directors and managing director, the ruling did not bring the long-awaited clarification of the issue. The concurrence of offices should still be avoided and all rights and obligations should be thoroughly regulated by an executive service agreement.



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In the judgement, the Constitutional Court dealt with the issue whether a member of a corporation's statutory body may carry out activities that, under the Corporations Act, pertain to the statutory body, in an employment relationship (governed by labour law). The law does not explicitly stipulate a ban of such a concurrence; however, courts have repeatedly deduced it in their decision-making practice.

The Constitutional Court emphasised that the general courts shall first respect the fundamental rights of private persons to act freely within legal boundaries and the principle that agreements are to be kept. Arguments for the ban of concurrence were analysed from the perspective of labour as well as commercial law. According to the Constitutional Court, no ban can be deduced from labour law that would prevent members of a statutory body from carrying out their activity or its part under a labour-law agreement. The Labour Code governs dependent work relationships; however, nothing prevents parties from opting for the Labour Code regime also in other cases. Whether the parties have agreed that their relationship will be governed by the Labour Code has to be assessed depending on the parties' intent.

From the commercial law perspective, the situation is unclear. The Constitutional Court admits that a ban could be deduced here, however, it requests the courts substantiate such ban in a convincing and conclusive manner, as it goes against the interest of private persons. The question thus remains whether the general courts will manage to support a ban of the concurrence of offices with sufficient arguments. Hence, it continues to be advisable to avoid the concurrence of offices and to regulate the rights and obligations by using an executive service agreement as a suitable and legally anticipated tool. Notably, since the effective date of the new Civil Code, a vast majority of companies has already done so.

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