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In brief

News in Brief, December 2025

Editorial

The world is changing rapidly and will continue to do so. More than anything else, artificial intelligence is increasingly impacting our lives. It is impossible not to notice how relatively quickly it has permeated our personal and professional lives. For example, right before our eyes and under our hands, it is transforming the way we have searched for information on the internet for the last two decades.

AI summaries are perhaps the most visible tip of the iceberg. However, the potential for using artificial intelligence is far greater and lies in many different sectors, including medicine. Even conservative areas such as taxation and accounting will be no exception – here too, the role of AI can be expected to grow significantly.

Some time ago, prompts appeared that quickly identified and analysed relevant judgments of the Supreme Administrative Court and regional courts. At KPMG, we are keeping pace with technological developments and offering our clients the GenAI tool. On the one hand, it provides them with a completely secure cloud environment for their data, and on the other hand, it can apply the latest ChatGPT algorithms to it without the user or company having to worry about sensitive data leaking onto the internet.

Artificial intelligence is also finding its use in the judiciary and public administration. Karel Šimka, President of the Supreme Administrative Court, spoke about its possibilities, but also its limitations, at the November Tax and Legal Forum. We bring you part of the interview – as well as a number of tax and legal news items and court rulings – in this year's final issue of Tax and Legal Update.

I wish you a peaceful (pre-)Christmas season spent with family and friends, as well as much success and wise decisions (whether driven by human or artificial intelligence) in 2026!



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Taxes

Permanent establishment occurring through home office arrangements: OECD updates its interpretation, Czechia disagrees

The OECD has published a long-awaited update to its Commentary on Article 5 of the Model Tax Convention on the Avoidance of Double Taxation, which deals in more detail with the concept of a permanent establishment where employees work from home or another non-company location abroad.



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The updated interpretation, published in mid-November 2025, is relatively favourable to employers and should bring greater certainty and flexibility in the use of home office abroad. However, the Czech Republic has disagreed with this interpretation in its Reservations to the OECD Commentary and confirmed its previous strict interpretation when assessing work from home in the Czech Republic for foreign employers: exclusively in accordance with the relevant double taxation treaty.

OECD interpretation

According to the updated OECD Commentary, two key factors must be taken into account when assessing the existence of a permanent establishment in connection with remote work.

1. **Scope of work from home**
   If an employee works from home abroad for less than 50 percent of their working hours over a 12-month period, the employer should not be considered to have a permanent establishment in that country on the basis of this home office.

2. **Business nature of the activity**
   Even if the 50 per cent threshold of working hours performed from home abroad is exceeded, a permanent establishment is not automatically created. It must also be proven that the employee's activity in the country in question is of a business nature. According to the OECD Commentary, there must be a clear link between the employee's work in the given location and the company's business activities – for example, the

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employee in the country deals directly with customers, suppliers, affiliated companies or other persons, and the fact that they are located in the given country facilitates these dealings. Conversely, a situation where an employee works from home abroad solely for personal reasons or to save costs is not considered a business reason.

The OECD Commentary also includes examples illustrating the application of the new approach.

- Example A: An employee works from their home abroad for 30 per cent of their working time during the year. Although the home is permanent and regularly used, this does not, without other decisive factors, create a permanent establishment for the employer, as the employee works there less than 50 per cent of the time.

- Example B: An employee works from their home abroad 80 per cent of the time and regularly visits local clients. The home is permanent and, because of the business purpose (serving local clients), is considered a place of business and a permanent establishment of the company.

- Example C: An employee works from their home abroad 60 per cent of the time, provides remote services to clients in various countries and only occasionally visits a local client. Although they spend more than 50 per cent of their time in their home country, their work from home is not considered a permanent establishment for the employer, as there is no business reason for the employee's presence there.

Reservation of the Czech Republic

Although the new update to the OECD Commentary provides companies with a relatively clear overview of the factors to be considered when assessing the existence of a permanent establishment, it is important to note that not all OECD member states fully agree with the updated guidelines.

The Czech Republic has voiced its reservations regarding the application of the criteria mentioned in the commentary, as it does not agree that the mere type of place used to perform work should be a determining factor limiting the possibility of a permanent establishment. It can therefore be assumed that the Czech Republic will continue to follow its current strict interpretation, and unless the activities carried out here are of a preparatory or auxiliary nature, a permanent established of a foreign company in the Czech Republic may occur due to the remote work of its employees, without getting to consider the other criteria set out in the OECD Commentary.

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Taxes

R&D allowance from 2026 – what will change and what will remain the same?

Several fundamental changes in research and development (R&D) allowances are being introduced by an amendment in effect from 1 January 2026. These mainly concern the method of calculating the allowance and the deadline for claiming it. However, the parameters for supporting the allowance, such as proving wage costs listed in separate records, remain unchanged.



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The most significant change from January 2026 is an increase in the allowance from 100 per cent of R&D expenses incurred to 150 per cent, up to a limit of CZK 50 million. However, this limit includes not only the expenses of the company in question but also the expenses of all taxpayers who are part of the same allowance group (i.e. the controlling entity and entities controlled by it alone or jointly with another entity).

At the same time, the deadline for claiming the allowance has been extended from three to five years. Along with this extension, the condition that claiming the allowance can only be postponed due to a low tax base or a tax loss has been abolished. Details can be found in our previous article.

The amendment opens up new opportunities for companies to support their own innovation activities. The increase in the allowance and the extension of the period for claiming it represent an attractive opportunity to gain a significant financial advantage and strengthen competitiveness in the market. However, for companies to truly take advantage of this opportunity, they must consistently and transparently record all expenses and time spent on research and development projects. The case law of the Supreme Administrative Court clearly shows that the successful utilisation of tax benefits is conditional not only on compliance with legal requirements but also and above all else on keeping proper records of expenses.

In a recent ruling (Ref. No. 3 Afs 122/2025–73), a company recorded wage costs based on a percentage share of employees working on an R&D project, with these shares being determined by management decision rather than on the basis of objectively measured data. The company did not keep formal attendance records or work reports for the project, and no other system for reporting work was implemented.

The SAC stated that expressing an employee's work on the project as a percentage is not wrong in itself. However, it must not be a mere estimate. At the same time, the SAC confirmed that the Income Tax Act does not impose an obligation to keep work reports for individual employees in connection with R&D allowances. Nonetheless, these reports are essential for the taxpayer to be able to document and prove the time that the employee actually spent working on the project. It is therefore not sufficient to simply summarise wage costs or express the employee's share in the project as a percentage if it is not documented how the entity arrived at these figures and whether they correspond to reality. The SAC thus ruled that the taxpayer had not met the burden of proof and was therefore not

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entitled to the R&D allowance.

The ruling provides several important insights that should not be overlooked by any entity claiming this tax benefit. When claiming an R&D allowance, it is necessary to keep detailed and verifiable separate records of expenses and regularly check and document the time actually worked on the project. At the same time, it is important to keep supporting documents that will allow the accuracy of the data to be verified retrospectively.

By combining new legislative options with consistent internal processes, companies not only minimise the risk of tax disputes but also maximise their potential to draw the benefits of the amendment. Proper record-keeping thus becomes the key to success in the new tax regime and a competitive advantage for those who are prepared for the changes.

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Taxes

Benefits overview (Part 4): employee meal allowances

Meal allowances and their various forms are perhaps the most widespread employee benefits. In the last part of our series on employee benefits, we will focus on meal allowances and their specifics, interpretations, and issues.



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Employers provide meal allowances not only to their current but often also to their former employees. In addition to allowances towards main meals, employees often have access to refreshments on the employer's premises and at company events and training sessions. It is also common for employees to attend business lunches with clients or meetings between team members at the employer's expense.

Read the previous parts of the series:
What to prepare for with introduction of JMHZ: employee benefit reporting
Pre-school and school fees as employee benefits
Sports and healthcare employee benefits

Change in the tax treatment of meal allowances

As part of the consolidation package, the taxation of meal allowances has fundamentally changed: instead of the previous limit on tax deductible expenses for employers, a limit on the tax exemption for employees has been introduced.

From 2024, it is necessary to monitor the annually changing exemption limit for employees, set at 70 per cent of the upper limit for meal allowances for business trips lasting 5-12 hours. In 2025, a meal allowance of CZK 123.90 per shift (or per calendar day for employees who do not have a set shift) is thus exempt from tax.

Meal allowances may have non-financial form, i.e., meals for consumption at the employee's workplace (company canteen) or meals provided by another entity (meal vouchers), or financial form, i.e., monetary meal allowances. The employer does not have to provide the employee with only one form of meal allowance but may combine them as desired.

However, the limit is cumulative, so it is necessary to include in the exemption limit all forms of meal allowances that the employer provides to the employee during a shift. Thus, if the employer first provides the employee with a full breakfast at the workplace during a shift and then a meal voucher for lunch, the allowances must be added up and then compared with the exemption limit.

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With the introduction of the exemption limit, the administrative burden of monitoring the tax implications of the allowances on the employee's part has increased. The opposite is true for employers: all meal allowances can now be considered fully deductible for income tax purposes on the employer's part, regardless of whether they are provided within or above the limit, as long as the employees' entitlement arises from a collective agreement, the employer's internal guidelines, an employment contract or another contract. In our opinion, these are expenses related to the working and social conditions of employees.

Meal allowances and business trips

For the meal allowance to be exempt from income tax on employment within the given limit, two additional conditions must be met:

- the employee must have worked at least three hours per shift (or calendar day) and
- during the shift, the employee must not be entitled to an obligatory meal allowance for business trips under the Labour Code.

We illustrate the fulfilment of the second condition with an example:

An employee works a shift from 8:00 a.m. to 4:30 p.m., and at 10:00 a.m. they leave on a business trip. After five hours (i.e. at 3:00 p.m.), the employee becomes entitled to an obligatory meal allowance for business trips under the Labour Code. Since the entitlement to that meal allowance arose during the shift, the employee is not simultaneously entitled to an exemption of the meal allowance voluntarily provided by the employer as a benefit from income tax. If the employer nevertheless provides such meal allowance (e.g. gives the employee a meal voucher for the shift as on other days), the value of the meal voucher will be taxable income for the employee and will also be subject to mandatory insurance contributions. However, if the employee leaves for a business trip later that day, and the entitlement to the obligatory meal allowance under the Labour Code only arises, e.g., at 6 p.m., the employee will retain the entitlement to the exemption of the voluntary meal allowance from income tax and at the same time will be entitled to the obligatory meal allowance under the Labour Code that would normally not be taxable for the employee (within the limits set by the Labour Code).

The employer may treat these expenses as tax deductible in both cases, depending on the specific details of how the employee's entitlement to meal allowances is defined by the employer.

Second meal allowance

If the length of an employee's shift (or working day), including a break provided by the employer, exceeds 11 hours, the employee is entitled to a second tax-exempt meal allowance (in the same amount as the first). The General Financial Directorate has confirmed that each allowance must be assessed separately in relation to the exemption limit.

Example:
An employee has a 13-hour shift. As their first meal allowance, they received a lunch voucher worth CZK 100. Subsequently, as a second allowance, they received an evening meal worth CZK 140. In 2025, both allowances must be compared with the exemption limit of CZK 123.90. The dinner allowance exceeds the limit, and the proportional part of the allowance is therefore taxable income for the employee and subject to mandatory insurance contributions.

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Meals for former employees – old-age and disability pensioners

In July 2024, an amendment to the Income Tax Act introduced a retroactive tax exemption for meals provided to former employees, for the entire calendar year. However, this only applies to meals provided in a company canteen (operated directly by the employer or an external supplier), not the provision of a multi-purpose meal voucher or a monetary meal allowance.

Furthermore, the exemption can only be applied to former employees who worked for the employer in question before retiring on an old-age or third-degree disability pension (i.e. the employer from whom the employee retired). The exemption limit for this allowance is the same as the exemption limit for current employees (CZK 123.90 in 2025).

The amendment has thus removed the unintended taxation of meals for former employees. As regards the tax deductibility of expenses for meals for former employees, we are inclined to believe that these expenses are tax deductible on the employer's part.

Light refreshments, business/working lunches and coaching lunches

According to the GFD's Methodological Information, the provision of light refreshments to employees for consumption at their workplace is not considered a meal allowance. These must be foods that do not reach the intensity of a main meal, such as light refreshments at work meetings, workshops, company training sessions, etc. Examples of light refreshments are yoghurts, sandwiches, fruit, or pastries. If the conditions are met, light refreshments are not subject to tax for employees, and their value is not included in the exemption limit. For employers, these are non-deductible expenses.

Apart from light refreshments, the GFD also commented on working lunches (or breakfasts and dinners). Although these involve the provision of a main meal, the same rules as for light refreshments apply, and such meals are therefore exempt from tax for employees. For employers, the expenses are non-deductible as entertainment expenses.

In accordance with the GFD's interpretation, only events attended by third parties (business partners, clients, etc.) fall into the category of business meals. Coaching or other group lunches (as well as breakfasts or dinners) among employees only, if paid for by the employer, are considered standard meal allowances exempt up to a set limit.

Valuation of benefits in form of meals at company canteens

A problematic area for employers may be determining the price of meals, and subsequently the amount of the meal allowance, if the meal is provided in a company canteen.

According to the GFD, in the case of company canteens, it is generally possible to determine the amount of the allowance based on the price charged to third parties (where the canteen is used not only by employees or former employees, but also by the public).

If the canteen is intended solely for employees, it is possible to determine the meal allowance amount using the comparable independent price method or the cost+ method. For the cost+ method, it is necessary to include ancillary operating indirect costs in the price of the meal, i.e., the wages of the employee serving lunch, energy costs and depreciation, but not general administrative overheads (e.g. the wages of the payroll accountant).

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Proposal to reduce minimum assessment base for social insurance for self-employed persons

One of the commitments of the incoming government coalition has been to end the increase in the minimum assessment base for social security contributions for self-employed persons. To this end, it has already submitted a motion to amend the law to the newly established chamber of deputies.



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The amending proposal includes maintaining the minimum assessment base for pension insurance and contributions to the state employment policy paid by self-employed persons for whom self-employment is their main activity at 35 per cent of the average wage, with effect from the first day of the month following the publication of the amendment in the Collection of Laws. Under current legislation, from 2026 the minimum assessment base would amount to 40 per cent of the average wage, which is set at CZK 48,967 for 2026.

If the proposed amendment is approved, the minimum monthly assessment base for self-employed persons for whom self-employment is their main activity will be CZK 17,139 for pension insurance and contributions to the state employment policy. The minimum monthly advance payment would therefore be CZK 5,005 compared to CZK 5,720 planned for 2026 under current legislation.

The new limit would apply for all of 2026 via transitional provisions. If a self-employed person has made advance payments in the amount higher than that under the new rules in the period from 1 January 2026 until the amendment comes into effect, they could request a refund of the difference from the relevant social security administration by 31 December 2026 at the latest. For the calculation of insurance premiums for 2026, the advance payment paid will be reduced by this overpayment.

The minimum assessment base for health insurance remains unchanged for 2026 at 50 per cent of the average wage. The minimum monthly assessment base for self-employed persons for whom self-employment is their main activity will thus be CZK 24,484, with a minimum monthly advance payment of CZK 3,306.

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KPMG's Tax and Legal Forum: Karel Šimka's comments on SAC case law re 'Svarc' system and transfer pricing

The participants in the recent Tax and Legal Forum were given a behind-the-scenes look at the decision-making and functioning of the Supreme Administrative Court (SAC) by its president, Karel Šimka. We bring you part of the interview with him conducted by Jana Fuksová.



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You are one of the key figures in the early case law of the Supreme Administrative Court on the 'Svarc' system. Could you comment on it?

Around 2004 or 2005, Vojtěch Šimíček and I started out from a simple premise. If the nature of an activity allows it to be performed in one form or another, i.e. as an employee or as a self-employed person, then in principle it should be up to the individual to choose one or the other regime, with all its advantages and disadvantages. At first glance, this is a catchy idea, but it is becoming increasingly difficult to defend it against the protectionist argument that says: 'No, we have two regimes – one more advantageous than the other in terms of taxation and insurance – and if we give too much leeway to the more advantageous one, the state or the pension system will start to have problems obtaining funds to meet public needs'. These two philosophical and value-based views play out in individual cases, and different judges place different emphasis on the basic dividing line – whether these are ambiguous activities, and to what extent self-employed persons are truly independent considering various perspectives: whether they have only one customer, how economically dependent they are on them, how much they have to obey them. To all these arguments, there are very good counterarguments from the other side. In principle, this division into two types of activities is soft: from a number of different angles, we can defend both versions, and in my opinion, it will never be 100% adjudicated because there is a philosophical contradiction here, which leads to different judges assessing the grey areas differently.

The 'Svarc' system issue has recently also come under the scrutiny of the State Labour Inspection Office, as we can see in the decision-making practice of the Supreme Administrative Court. Does tax-related case law also apply to the assessment of employment-related offences, or has there already been a shift in opinion?

I fear that in the future the assessment of whether work is dependent and the assessment of tax implications may be an area with more uncertainty than clarity. In my opinion, the financial administration has already come to terms with the parameters set by case law and does not challenge the treatment of ambiguous activities. The Ministry of Labour and Social Affairs is approaching the issue from the "other side", but in a similar way: through the concept of dependent work, which is something that is undoubtedly closely related to the tax aspect but may not completely coincide with it. When the defining characteristics of dependent work differ from the tax regulation

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formed by case law, something may happen that I consider highly undesirable. Namely, that the penalty for dependent work will stand because the definition may be stricter under employment regulations, but additional tax may not be assessed. In my opinion, this is economic nonsense. One situation should be assessed consistently from all possible regulatory perspectives. It is more a matter for political and legislative debate to harmonise this.

Recently, credit financing has been under scrutiny from the abuse of law perspective. How do you view individual cases and where do you look for the sometimes very fine line between the legitimate optimisation of business relationships and the abuse of law?

It is important to realise that professional judges gain insight into economic issues mainly through the cases they hear in this area. They are, in a manner of speaking, civil servants whose lives are relatively clearly mapped out and who may encounter risk elsewhere, but certainly not at work. This is a systemic parameter that belongs to the judiciary and is meant to be set this way, but of course it influences judges when they think about business risks. That is why, whenever we talk about an abuse of law, I emphasise that it is necessary to present to the court that your story, which has become the subject of interest of the tax authorities, is essentially honest. That there may be some creative thinking behind it, but in any case, it has a real business reason. And that reason should be to make money, not by gaining tax advantages, but by carrying out fundamental activities for which I need some form of investment, acquisition or reorganisation of assets within the group. The fundamental dispute we have been engaged in for many years is how much a tax advantage can be the main or essential reason for a business arrangement. A trend that I am not very happy about because I would prefer legal certainty and how the state sets it up, is that a tax advantage must not be the predominant factor leading to your decision. As soon as the tax aspect becomes too prominent in your story, there is a great danger that an abuse of law may be investigated. It is hard to describe, and from a business and regulatory risk perspective difficult to eliminate, because you are never completely sure what the tax authorities and subsequently the court will say in a borderline situation.

We can see digitisation and technological development not only among taxpayers but also in the financial administration, which makes no secret of the fact that it is starting to use advanced analytical tools and algorithms in its inspections and in its selection of the entities for inspection. Where do you think the line should be drawn for the judicial review of such administrative decisions? And will we see courts reviewing decisions that have been generated to a greater or lesser extent by an algorithm?

To a certain extent, even the judiciary already makes some decisions by machine. The system that generates orders to pay, i.e. simplified court decisions issued in lawsuits for payment of a financial amount, can be an example, even though they are ultimately signed by the person responsible for them. In simple cases, if we can algorithmise them and set up the relevant procedures, we are moving towards more or less machine-supported decision-making, albeit still under the formal guise of a human signature. However, I do not believe that we are far enough along to reach this point in complex cases in the foreseeable future. There, you in fact want the judge not to be algorithmically predictable in a certain respect, so that there is an element of "chance" based on the fact that the judge has ethical preconceptions and ethical values that are subconsciously reflected in their decisions. Ethics and value-based ambiguity can be useful in borderline cases. However, there is nothing wrong with the judiciary or public administration using increasingly sophisticated tools that give them an overview of how the agenda has been decided in the past, as well as arguments. This is a good thing and a natural development.

And what about the limits of judicial review of administrative decisions?

Here we have to think in terms of ethics and values. It is difficult for the administrative court to determine this on its own; if anything, it should be up to the Constitutional Court. We can imagine a "Chinese" world in which we will label all transactions and monitor them in real time. They will have certain characteristics that will be saved and evaluated. Essentially, a system will be created that at first glance will almost flawlessly detect tax fraud and

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prevent it. Personally, I think that countermeasures would eventually be found to label transactions so that they appear differently. Human ingenuity is endless. But what bothers me the most is the amount of information that the state will collect about individuals in this way. I think there should be a limit to this, even if it may lead to less effective public control systems. In my opinion, it is more important to protect the autonomy of the individual, their privacy, and that they can be at least reasonably sure that the state does not know everything about them. Some might say that they would rather have order, even at the cost of the state having a very close look into their lives. Personally, I will always vote for a little more chaos and unpredictability and a little less powerful state.

One area where we are still looking for more specific limits to case law is transfer pricing. The Supreme Administrative Court has recently issued an interesting ruling on who should bear the costs of setting up production. How do you view the position of foreign investors and where is the line between their strategic decisions whose economic consequences should be borne by a Czech subsidiary, and where it is an order from the parent company for which the subsidiary should be compensated?

Transfer pricing is based on a simple logic: Let's look at dependent transactions from an arm's length perspective. In other words, what would the subsidiary do if it were not in the position of a subsidiary? It's very difficult because it would probably do something significantly different. Therefore, any such modelling is necessarily somewhat hypothetical. When there is a parameter that the costs of the transformation were borne by the subsidiary without a reasonable investment horizon in which its investment would pay off, this can only be perceived as a situation where the parent company wanted to create costs that would prevent the company from achieving a profit that could be reasonably taxed. In the 1990s, when we were starting out with foreign capital, it was logical that when a company came to the Czech Republic, it wanted to have a higher return than in its home countries because it was entering a situation with greater risk. However, developments are moving forward, and what was possible then is now indefensible from the arm's length perspective.

How do you want to build public trust in the judiciary?

Through our daily work. We strive to make decisions professionally, i.e. in accordance with the law and in a fair manner. Although I am not always happy with the laws that I have to base my decisions on, my role is to respect them. For example, I have never liked the law restricting shops' opening hours during public holidays, but it is a law that has been legitimately agreed upon by the majority of this country's legislators, and it is not up to a judge to change it. If we think that laws are unconstitutional, we have the option of submitting them to the Constitutional Court with a proposal for repeal, and we should do so. The rest is the normal routine of a SAC judge: to decide within reasonable time. I am pleased that over the last four years, in cooperation with the executive power, we have managed to shorten the length of proceedings. When I took up the position of president in 2022, we had 3,400 unfinished cases. Today, we have around 1,450, which is equivalent to less than half a year of the Supreme Administrative Court's activity. We have improved significantly in terms of speed, and now it is a matter of maintaining quality in a relatively stable legal system, which is increasingly shaped by case law. For me, trust in the judiciary is about small, everyday work. We must strive to do it well, talk about it to an appropriate extent, and cultivate the Czech justice system in the same way that an English lawn is cultivated – by watering and mowing. Over and over again.

Are there any specific decisions that have significantly strengthened legal certainty or ones that have brought new challenges?

I have been working at the Supreme Administrative Court for 21 years, so I see it from a longer perspective. The formative years of the court were mainly in its first decade. At that time, we made significant changes to the functioning of public administration, especially tax administration. I think we made it more humane, more professional and more respectful of legal rules. Today, it is a solid and dignified partner for taxpayers. On the other

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hand, taxpayers have to get used to the fact that professional tax administration cannot be easily fooled. In my opinion, this is quite a good result. There are also specific court rulings – the issue of the 'Svarc system', the review of tax inspections and their repetition, and case law concerning securing orders. We have also made a solid mark to administrative punishment principles. I do feel a certain deficit in the rules for the running of time limits and events that suspend it – however, it is not within the power of the court to change this or speed it up significantly through case law.

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Register of beneficial owners publicly inaccessible from 17 December 2025

The Ministry of Justice has announced that from 17 December 2025, it will make the Register of Beneficial Owners (in Czech: Evidence skutečných majitelů, ESM) publicly inaccessible. This step follows current European legislation and recent case law of the supreme courts.



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Until now, the ESM has been largely freely accessible, and anyone could search for basic information about the beneficial owners of legal entities and legal arrangements. However, in their recent decisions, the Supreme Court and the Supreme Administrative Court have described this situation as a disproportionate infringement on the right to privacy and personal data protection. This conclusion follows on from a ruling by the Court of Justice of the European Union, which repealed part of the EU directive requiring public access to data on beneficial owners.

As, in light of the case law of the supreme courts, the obligation to register with the ESM leads to an unjustified infringement on fundamental rights, the state cannot insist on its fulfilment and therefore cannot sanction its violation. In practice, therefore, key instruments and sanction mechanisms of the ESM Act have ceased to be applied – for example, irregularities and offences are not dealt with, and private law sanctions (prohibition of payment of profit shares or shares in liquidation balance, or prohibition of the exercise of voting rights) are not applied. Entities have thus lost the motivation to keep data complete, accurate and up to date, which has led to limited use of the ESM.

What will change?

After 17 December 2025, the public will no longer be able to view any data on beneficial owners in the ESM. Access will remain available to public authorities, entities subject to the AML Act (banks, solicitors, notaries, auditors, tax advisers) and other privileged entities, such as certain entities awarding public contracts. The ministry is preparing a new automated system that will allow most of these entities to set up remote access. In addition, limited access will also be granted to persons who demonstrate a legitimate interest.

Making the data inaccessible to the public is intended to remedy the unconstitutionality of the current situation. Once again, all processes linked to the ESM will thus begin to apply, the registration obligation will be enforced, proceedings on irregularities can be initiated and private law sanctions reactivated. Legal entities that have so far relied on the ESM's being 'paralysed' should therefore supplement, correct or update their data as soon as

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possible, but no later than 17 December 2025.

Further legislative developments

The Ministry of Justice is currently preparing an amendment to the ESM Act, which will formally establish the inaccessibility of the register to the public and at the same time implement new EU AML legislation rules, according to which data on beneficial owners will no longer be publicly available.

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Is this the end of ‘forever chemicals’ in the EU?

The European Union plans to gradually restrict the use of ‘forever chemicals’ found in packaging, textiles and electronics and subsequently accumulating in nature and the human body. The aim is to protect the environment and human health.



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Per- and polyfluoroalkyl substances (PFAS) are a group of synthetic chemicals that have recently become ubiquitous – they are used in food packaging, textiles, cosmetics, tableware, electronics and industrial production. At first glance, they have excellent properties: they repel water, grease, and dirt and can withstand almost anything. However, their indestructibility is also their biggest problem. PFAS do not decompose – which is why they have been nicknamed ‘forever chemicals’. They accumulate in soil, water and the human body. Long-term human exposure to certain PFAS is associated with a number of adverse effects, such as carcinogenicity.

A particularly sensitive sector where PFAS are used is packaging and materials intended for contact with food. When PFAS are used in packaging materials, exposure is virtually unavoidable and poses an unacceptable risk to humans. The EU therefore wants to phase them out. The aim is to prevent these substances from entering food, water and subsequently the human body. In a recently adopted regulation on packaging, the EU has therefore taken steps to restrict PFAS in food-contact packaging: with effect from 12 August 2026, it has set limit values for their concentration.

At the end of October, the EU also amended the REACH Regulation, which deals with the registration, evaluation, authorisation and restriction of chemicals. With effect from 23 October 2026, PFAS will also be restricted in fire-fighting foams, and from 23 October 2030, the placing on the market and use of fire-fighting foams with a PFAS concentration of 1 mg/l or higher will be prohibited.

But that is far from the end of the story. The EU is moving towards the comprehensive regulation of PFAS through broad restrictions on ‘forever chemicals’ across sectors. This approach is considered the most effective and should also apply to imported products. At the same time, it should also cover as-yet-unknown PFAS and prevent the replacement of banned substances with other PFAS with the same risks. However, it is expected that there will be exceptions to the ban where other specialised legislation already applies, such as the use of PFAS as active substances in pesticides, biocides or medicines. These exceptions will, however, be subject to reporting requirements.

Although this strict regulation of PFAS is still only in the legislative preparation and impact assessment phase, given the trend towards ensuring health and environmental protection, it can be expected that EU legislators will proceed with the further regulation of PFAS in the near future.

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EU Council: customs will also apply to imported goods worth less than €150

The EU Council has agreed to abolish the €150 threshold below which customs duties are not payable on goods imported into the EU. The new measure should be introduced on a transitional basis as early as 2026, with full implementation in 2028.



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EU finance ministers have agreed to abolish the €150 threshold for applying customs duties on imports into the EU. Once the new rules are in place, customs duties will be levied on all goods imported into the EU, starting from the first euro of value. This will align the customs treatment with the VAT rules on imported goods, which have been in force since 2021.

The new obligation will take effect after the launch of the EU Customs Data Hub, which is currently planned for 2028. Given the urgency of the situation, the Council has committed to preparing a transitional measure that will allow customs duties to be levied on small consignments as early as 2026, i.e. before the data hub is launched. Work on this transitional arrangement will continue in the coming weeks. Preliminary discussions are focusing on the possibility of imposing a temporary levy of EUR 2 on the value of each parcel, starting in the second quarter of 2026.

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Subsidies

TWIST programme offers subsidies for AI research and development

The Ministry of Industry and Trade launched a new call under the TWIST programme, aimed at supporting the development and use of artificial intelligence. Companies have the opportunity to receive up to CZK 30 million for projects that bring innovation and make Czech industry more competitive.



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Applications for support can be submitted until 17 December 2025. The support is intended for the development of new products, technologies or software using AI. Each project must produce at least one output, namely a utility model or industrial design, prototype or functional sample, software or a pilot plant or a proven technology. Large enterprises may also apply for this type of support, but only if the project is carried out in effective cooperation with other entities, such as a research organisation or a small or medium-sized enterprise.

The aid intensity for large enterprises is set at 40 to 65 per cent of eligible expenses, depending on the category of activity (i.e. whether it is industrial research or experimental development). The subsidy can be used to cover operating expenses associated with the implementation of the project, such as personnel costs, selected services or materials.

The main applicant for the project must be an entity based in the Czech Republic (including in the capital city of Prague), while other applicants may be based anywhere within the EU, EEA or Swiss Confederation. The project duration must not exceed 24 months.

If you are considering submitting an application, we will be happy to help you with project preparation and subsidy administration.

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Case law

SC: Employers' responsibility for occupational health and safety extends to suppliers' workers

The employer's obligation to ensure occupational health and safety (OHS) is traditionally perceived as an obligation towards their employees. However, in a recent landmark decision, the Czech Supreme Court confirmed that an employer's obligation to ensure a safe working environment also applies to the workers of the employer's suppliers. This applies even if these are self-employed persons (OSVČ) who perform their activities at the employer's workplace.



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In the case in question, an employer outsourced cleaning work at an electrical substation to an external contractor – a legal entity. The contractor entrusted the cleaning to a cooperating self-employed person who acted as a subcontractor. The self-employed person was granted access to the employer's workplace and instructed by the employer's employee to clean all rooms that were open. However, in one of them there was an unprotected live wire carrying 22,000 volts. The worker touched it and suffered a serious injury. They then sought damages from the employer – the operator of the substation – in court.

In their lawsuit, the self-employed person claimed that they had not been provided with conditions for safe work, had not been sufficiently instructed, and that their work had not been properly supervised. They therefore claimed damages from the employer. However, the employer argued that the self-employed person was not their employee and that the responsibility for their health and safety should be borne by the contractor (the cleaning company).

The court stated that the employer's obligation to ensure occupational health and safety applies to all natural persons who, with the employer's knowledge, are present at the workplace. The employer is therefore also responsible for the safety of its contractors' workers, whether employees or self-employed persons, if they allow them to enter the workplace. In this case, the court found that the employer had violated safety rules, which led to the accident. The injured self-employed person was therefore awarded damages.

What does this mean for employers?

The Supreme Court ruling represents a significant extension of employer responsibilities for occupational health and safety. Employers can no longer rely on the assumption that only the direct employer or contractual partner is responsible for the safety of external workers, self-employed persons or subcontractors. If an employer allows these persons to enter their workplace, they must provide them with the same occupational health and safety

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protection that they provide to their own employees – for example, proper training, monitoring of compliance with safety measures, marking of hazardous areas, and other preventive measures. In practice, this means updating internal guidelines, training responsible persons and consistently monitoring OHS compliance for all external workers. Failure to comply with these obligations may result not only in financial penalties but also in liability for damage.

This ruling sets an important precedent for practice and should be considered when setting up internal OHS processes. We therefore recommend that employers with external contractors thoroughly review and, if necessary, adjust their OHS processes to comply with the current legal interpretation.

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Case law

SAC on conditions for depreciation of technical improvements to real estate

The Supreme Administrative Court (SAC) has addressed under what conditions building alterations to real estate can be considered technical improvements eligible for tax-deductible depreciation. The court concluded that depreciation can only be applied to technical improvements where the taxpayer can prove that the improvements have been put into a condition suitable for normal use and can document when the construction work was carried out.



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The judgment (6 Afs 18/2025) concerned depreciation charges related to the conversion of a former warehouse and garages into a sauna with whirlpools used for business purposes. While the original proceedings were quite complex, after the regional court dismissed the action, the taxpayer appealed to the SAC with a cassation complaint focusing on only one cassation objection.

In the cassation complaint, they contested the regional court's conclusion that they had not proven that the property had been brought into a condition suitable for normal use, which prevents the application of tax depreciation of technical improvements. One of the conditions for applying tax depreciation is the fulfilment of obligations laid down by special legal regulations, in this case, the Building Act. According to the regional court, the taxpayer failed to fulfil these obligations, as they had not provided a final occupancy permit or consent to a change in the purpose of use. Moreover, it was not clear from the evidence when the reconstruction took place.

In their complaint, the taxpayer claimed that the compliance of the use of the building in question with legal regulations could also be proven by documents other than the occupancy permit (which, according to the taxpayer, had not been preserved). Instead, they submitted a decision not to order the removal of the building, which, in their opinion, proved that it was not an unauthorised building. They also argued that the tax administrator had not proven the original purpose of use of the property and therefore should not have required proof of the change of its use.

Proper documentation is key

In its ruling, the SAC emphasised the purpose of the legal regulation of tax depreciation, which is to ensure that the taxpayer only depreciates assets that were actually acquired and used for the purpose of securing, generating and maintaining taxable income. According to the court, the taxpayer should have proven to the tax administrator that the conditions for applying the depreciation of technical improvements had been met (substance) and that it was related to the taxable period in question (timing).

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Given that the taxpayer failed to prove that they could apply the depreciation of technical improvements already in the 2014 taxable period, their cassation complaint could not be successful in the court's view, as they did not even challenge this conclusion of the regional court in their complaint. In addition, the SAC stated that the taxpayer had not submitted any documents proving that the reconstruction of the property in question and its use were compliant with the provisions of the Building Act.

The judgment highlights the importance of proper and careful documentation and archiving of construction alterations. When the tax administrator inspects the applied tax depreciation charges, the taxpayer must provide evidence of the completion of the alterations, their legality, and their exact timing.

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Case law

Burden of proof when changing valuation of internally produced inventories

A recent ruling by the Supreme Administrative Court (SAC) dealt with proving a change in an accounting method regarding valuation of internally produced inventories, and its impact on the tax base. The ruling provides important conclusions for accounting entities, particularly with respect to documentation and the burden of proof when changing calculation formulas.



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The subject of the dispute was whether the taxpayer was entitled, as a result of the change in an accounting method, to reduce their tax base by the amount reported as a reduction in the cost of internally produced inventories, and whether they had correctly calculated this amount. **Throughout the proceedings**, the tax authorities **demanded that the taxpayer prove that there had been a change in an accounting method**, i.e. a change in the calculation formula for valuing inventories.

In interpreting what constitutes a change in an accounting method, the courts referred to the interpretation of the National Accounting Board and an earlier judgment of the SAC from 2022. A change in method is not merely a change in accounting results but a change in the exact procedure (calculation formula) and only if both the original and new methods are in accordance with accounting regulations.

A change in an accounting method must also be distinguished from a correction of an error or a change in accounting estimates. If an entity switches from an accounting method that does not comply with legal regulations to a method that does comply, this would be a correction rather than a change in an accounting method.

The taxpayer argued that as a result of changes in accounting regulations (in particular an amendment to the Act on Accounting and to the related decree), they had to adjust the method of valuing their internally produced inventories. **The taxpayer failed to prove a change in an accounting method directly**, as they did not know the previous calculation formula due to changes in the ownership structure; **indirect evidence did not meet the burden of proof either, as the entity did not prove the components of the previous calculation formula.** They also failed with their argument that the accuracy of the new valuation of their internally produced inventories had been approved by the auditor. In the court's opinion, this is not sufficient to conclude that the new valuation was the result of a change in an accounting method. The SAC therefore denied the claim for a reduction in the tax base.

Recommendation: archive historical formulas and methodologies

The valuation of inventories in accounting has a direct impact on the tax base. We therefore recommend archiving not only current but also historical calculation formulas and methodologies for inventory valuation to be able to demonstrate what the original and new methods consisted of and what the difference between them is. Moreover, both methods must comply with applicable accounting regulations.

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Factoring commissions and arrangement fees are subject to VAT

The Court of Justice of the European Union (CJEU) has confirmed that factoring services, whether in the form of the sale of debts or financing secured by a pledge of debts, constitute taxable supplies. Both commissions for providing financing and arrangement fees are consideration for debt collection and management services. They therefore do not fall under financial services and thus cannot be exempt from VAT.



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In the case in question (C-232/24), a Finnish factoring company offered two models:

- invoice factoring, whereby the factoring company provides financing and debts are used as a security – the risk of non-payment is borne by the customer, and
- trade factoring, whereby debts are sold to the factoring company – the risk is transferred to the factoring company.

In both cases, it involved uncontested and not yet due debts for which customers received immediate funds. When arranging factoring, the customers paid, among other things, an arrangement fee and a commission for the provision of financing, calculated as a percentage of each debt according to its risk level.

The CJEU confirmed that both trade factoring and invoice factoring constitute the provision of a service for consideration that is subject to VAT. The main purpose of factoring (regardless of its form) is the recovery and collection of third-party debts.

The factoring company therefore provides their customers with a service consisting in relieving them of the need to recover debts and bear the risk of non-payment. For this service, the factoring company receives remuneration, and its amount depends on the risk associated with the debt and the customer's credit rating. Debt collection and recovery services do not fall within the scope of financial activities exempt from VAT and are therefore taxable.

The CJEU examined whether the commission for providing financing and arrangement fees can be considered consideration for a single debt collection service, which is subject to VAT, or whether they can be considered, at least in part, remuneration for the granting of credit, which is a service exempt from VAT.

The CJEU stated that, from the perspective of both the factor and the customer, factoring service is a single and indivisible supply with the purpose to transfer the recovery and collection of debts from the customer to the factoring company. The commissions and arrangement fees paid by the customer constitute consideration for this single supply and are therefore subject to VAT. Although in invoice factoring the factoring company provides the customer with funds against the pledge over debts, the main purpose remains the recovery and collection of debt and not the granting of credit.

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Case law

CJEU: supply of components and supply of equipment for their manufacture not a single supply for VAT purposes

Are the supply of components (products) and the supply of equipment necessary for their manufacture a single supply subject to the same VAT treatment? According to a judgment of the Court of Justice of the European Union (CJEU), no. Since the equipment in question was not directly installed in the products, its supply should not constitute an ancillary supply to the principal supply (supply of components), and these two supplies should therefore not constitute a single indivisible economic supply.



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German company Brose Coburg purchased equipment from Bulgarian company IME Bulgaria for the production of components for window regulators and door modules for cars. The equipment in question remained physically on the premises of IME Bulgaria in Bulgaria. Brose Coburg subsequently transferred the equipment to its Slovak affiliate, Brose Prievidza. The equipment remained physically on the premises of IME Bulgaria in Bulgaria, which used it to manufacture components for Brose Prievidza and later on supplied them to another EU member state as intra-Community VAT-exempt supplies.

As the equipment remained physically in Bulgaria, Brose Coburg charged Bulgarian VAT on the sale of the equipment, which Brose Prievidza requested to be refunded. The Bulgarian tax authority rejected the request on the grounds that the equipment constituted an ancillary supply to the supply of components that should also be exempt from VAT.

The CJEU first pointed out that since the goods did not physically cross the Bulgarian border, one of the conditions for applying VAT exemption to the intra-Community supply of goods had not been met, although the recipient of the goods was established in a member state other than that of the supplier.

The CJEU then addressed whether the supply in question constituted a principal and ancillary supply and should therefore constitute a single indivisible economic supply. The CJEU pointed out that each supply was provided by a different supplier and on the basis of a different contract. Furthermore, the equipment in question was not intended for the manufacture of a specific component or for incorporation into a component, but for series production. This suggests that the customer's intention in this case was rather to obtain certainty enabling them to secure their position vis-à-vis the supplier (particularly in the event of the supplier's insolvency) or the possibility to transfer this equipment if required by the production process, rather than to make better use of the supplied components.

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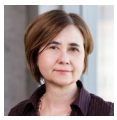
The CJEU concluded that Brose Prievidza did not seek to obtain an unjustified tax advantage in this case, which, according to the CJEU, plays a key role in classifying the supply as having been artificially split. The CJEU therefore ruled that in the present case, each supply to the customer has its own function or purpose, and neither can be considered ancillary to the other. The CJEU therefore upheld Brose Prievidza's claim for a refund of the VAT in question.

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In brief

News in Brief, December 2025

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



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DOMESTIC NEWS

- On 27 November 2025, the outgoing government approved a new accounting law and accompanying legislation. Once submitted, the bills should be debated by the chamber of deputies.
- Financial Bulletin 18/2025 contains the dates of tax obligations (tax calendar) in 2026.
- Financial Bulletin No. 17/2025 contains a communication on the application of the Treaty between the Czechoslovak Socialist Republic and Japan for the avoidance of double taxation with respect to taxes on income.
- Financial Bulletin No. 16/2025 contains Instruction No. MF-20 on setting deadlines in tax administration.
- Decree No. 489/2025 Coll., on the determination of basic rates of foreign meal allowances for 2026, has been published in the Collection of Laws.
- Decree No. 451/2025 Coll., on certain submissions via prescribed forms within the scope of the Czech Customs Administration, has been published in the Collection of Laws.

FOREIGN NEWS

- The OECD has published an update to the Model Tax Convention on the Avoidance of Double Taxation. The update contains one change to the model agreement itself (Article 25), while the other changes concern the commentary (Articles 5, 7, 9, 25, and 26), including detailed guidelines on cross-border remote work (more here) and the taxation of income from the extraction of natural resources.
- The European Commission has published an evaluation report on the Directive on Administrative Cooperation (DAC) in the field of Taxation. The report confirms that the DAC provides a functional legal framework but recommends further simplification, harmonisation of interpretation across the EU and strengthening of sanction mechanisms. For DAC 6 (reporting of cross-border arrangements), the Commission plans to clarify and specify the characteristics ('hallmarks') of reportable arrangements, while considering incorporating the principles of the proposed directive against the abuse of shell companies (Unshell) into mandatory reporting.
- The OECD has published an updated list of countries that have signed the multilateral agreement on the automatic exchange of information under the GloBE rules (GIR MCAA, Pillar 2). The signatories include Austria, Belgium, Denmark, Finland, France, Germany, Hungary, Ireland, Italy, Japan, South Korea, Liechtenstein, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Slovakia, South Africa, Spain, Switzerland, and the United Kingdom.

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