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In brief

News in Brief, March 2025

Editorial

Artificial intelligence is changing the world. It is also a big topic for tax advisors, including those at KPMG. Having successfully implemented our Tax GenAI platform for internal use, we will be offering this secure tool also as a service to our clients. In this respect, we let our imagination run wild and tried to come up with a prompt for an unsolvable problem in our legislative process. We are leaving it to (your) imagination how this might turn out:

"Imagine you are tasked with solving a seemingly unsolvable problem: with less than seven months to the parliamentary elections, many legislative proposals are pending at various stages of the legislative process that legislators will certainly not have time to pass. They will thus fall under the table once the current chamber's mandate ends. And this is perhaps for the better, although regulations that we absolutely need or that must implement EU rules before a certain deadline are also threatened by this fate.

For worse are the legislators' last-minute attempts to attach unrelated legislative proposals – riders to important bills. Typically, these reflect the creativity of individual MPs, but often are also a result of missed deadlines for legislative changes proposed by ministerial officials themselves, or even overt or covert government proposals. In general, however, they are characterised by a questionable quality, inadequate justification, and the factual impossibility to correct anything about them. For instance, in a situation where the main bill to which the riders have been attached simply must be passed, for some reason. The experience from previous parliamentary terms has been downright frightening in this regard, and this year threatens to be no better.

Your task: Search and review all legislative proposals and select only those that make sense. Edit their wording so that it is clear and unambiguous and does not allow for double interpretation. Prepare a brief justification so that legislators understand the meaning, purpose and wording of the proposals. And above all, find a compromise across the political spectrum so that the new provisions are not repealed or substantially amended after the election, whatever their outcome may be.

Prepare a draft agenda for the chamber of deputies' session, make coffee for the deputies, and provide them with relevant information during the debate. Present everything in an interesting way so that no one feels the need to peruse their social networks.

Set aside proposals that you consider unnecessary or harmful, and let them disappear into the annals of history.

And don't forget to strictly observe the laws of robotics!"



Jan Linhart
Partner

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Employee stock option plans: senate approves taxation amendment

In the autumn of last year, a draft amendment to the Income Tax Act (and insurance laws) concerning the taxation of income from employee stock option plans was added as a legislative rider to the draft amendment to the Act on Child Care Services in Children's Groups during its reading in the chamber of deputies. The amendment has now been approved by the senate and will come into effect on the first day of the first calendar month following the date of promulgation.



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We wrote about this in October 2024's Tax and Legal Update.

Due to the length of the legislative approval process, the originally announced effective date of the amendment was not met, and the senate debated and approved the final print only on 26 February 2025. The amendment has a significant impact on both 2025 (i.e., income received after the amendment's effective date) and 2024 (i.e., the period before the amendment's effective date).

According to the approved wording, a taxation postponement (introduced by the previous amendment in 2024) shall only apply to income from stock and option plans that an employee receives after the amendment's effective date if the employer notifies the tax administrator of their intention by the 20th day of the month following the month in which the employee acquires the share or option. Otherwise, the employee's income shall be taxed in the same way as it was until the end of 2023: i.e., in the month the share or transferable option is acquired or a non-transferable option exercised. The payment of relevant insurance premiums, if any, shall be made at the same moment as the taxation.

For employee income received before the amendment's effective date, the proposed wording underwent significant changes during the third reading. Postponed taxation will only apply to such income if the employer notifies the tax administrator of such an intention within two months from the amendment's effective date. If they do not do so, the income becomes taxable in the second month after the amendment's effective date. Therefore, in the relevant month of 2025, employers should consider this type of employee income within their payroll processing.

The amendment has raised many questions and uncertainties, which is why the General Financial Directorate has announced that it will issue its methodological guidance. Guidance is especially expected on the procedure where an employer or employee decides to tax income from employment received in 2024 in their payroll or in a tax return for 2024. At the same time, we are also expecting the Czech Social Security Administration and health insurance companies to express their opinions on the matter.

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GFD Information on changes to VAT payer status and registration procedure

In connection with the amendment to the VAT Act effective from 1 January 2025, the GFD issued Information on the VAT payer status and registration procedure. The information provides more precise guidance on when a taxable person becomes a VAT payer and lists the individual deadlines. In this article, we focus primarily on mandatory VAT registration.



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Origin of the obligation to register as a VAT payer

The first change introduced by the amendment is that to become legally obligated to register for VAT, two annual turnover thresholds must be considered: the first one remains CZK 2,000,000 per calendar year, based on which the taxable person becomes a VAT payer on the first day of the year following the year in which the threshold was exceeded (unless they decide to become a VAT payer voluntarily on the date following the date the threshold was exceeded). The second one is a new maximum turnover threshold of CZK 2,536,500, which is an immediate trigger for mandatory VAT registration: the taxable person becomes a VAT payer on the date following the date this threshold was exceeded.

The period over which turnover is monitored has also been changed: under the new rules, turnover is determined on a calendar year basis. This change is effective from 1 January 2025, so all taxable supplies made before 31 December 2024 are not included in the turnover threshold for 2025.

The amendment also brought changes to the origin of the VAT payer status where a taxable person carries out only VAT-exempt supplies without the right to deduct, such as financial activities. It still holds that if a taxable person exceeds one of the above turnover thresholds exclusively with supplies without the right to deduct, they do not become a VAT payer by the operation of law. However, once they perform a supply for which they would be entitled to a VAT deduction, they become a VAT payer on the first day of the following year where the CZK 2,000,000 turnover threshold is exceeded; if the CZK 2,536,500 threshold is exceeded, they become a VAT payer on the following day.

However, in some situations it will also be necessary to monitor the previous year's turnover, but only from 1 January 2026 when the turnover for 2025 is tested. If the turnover exceeds CZK 2,000,000 and the taxable person carried out a supply with the right to deduct, while they at the same time exceeded that turnover threshold also in the previous calendar year (even if only with supplies without the right to deduct), the taxable person will become a VAT payer on the date following the date the turnover threshold is exceeded or the date the supply with the right to deduct is effected.

Registration procedure

The obligation to submit an application for VAT registration is now set uniformly: within 10 working days from the

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date of having exceeded either turnover threshold or from the date of effecting a taxable supply with the right to deduct where the turnover had been exceeded exclusively by performing supplies without the right to deduct.

If a taxable person's turnover exceeds CZK 2,000,000, they can register for VAT immediately on the date following the date the turnover threshold was exceeded, without having to wait until the beginning of the following year. They must indicate this fact in their registration application. They can thus avoid having to monitor the second turnover threshold of CZK 2,536,500. Nevertheless, the registration application must be submitted within the statutory deadline, i.e., within 10 working days. If the application is submitted later, the tax administrator will register the taxable person from the first day of the following calendar year.

Subsequently, it may happen that the taxable person exceeds the turnover threshold of CZK 2,536,500 in a given calendar year and is thus obliged to submit a new registration application, even though they have already been informed that they will become a VAT payer from the first day of the following calendar year.

Transitional provisions

The GFD information confirms that if the turnover threshold is exceeded before 31 December 2024, the law in force until 31 December 2024 shall be followed. The registration application will have to be submitted within 15 days after the end of the calendar month in which the turnover threshold was exceeded. Retroactive registrations where the conditions for registration were met in 2024 will also be dealt with in accordance with the wording of the law in effect before 31 December 2024.

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Tips and tricks

Income tax and VAT aspects of technical improvements to leased assets

The termination of a lease of premises to which the lessee carried out technical improvement may have significant tax implications for both the lessee and the lessor. If, with the lessor's consent, the lessee makes technical improvement to the leased property at their own expense and has the lessor's written consent to its tax depreciation, several options arise upon the termination of this lease. Each carries different tax consequences for both parties. What are the options and what to look for?



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Disposal of technical improvement

One option is to put the leased premises into their original condition. According to GFD Instruction D-59, if the lessee puts the leased premises into their original condition at the end of the lease, the net book value of the technical improvement carried out by the lessee can be considered a tax deductible expense in the taxable period in which the premises are put into their original condition. In this case, there are no tax consequences for the lessor.

We often encounter lessees who underestimate the need for proper documentation of the disposal of technical improvements. The disposal can be carried out by a contractor (even by the lessor themselves), but the burden of proof is always on the lessee. If the disposal is carried out by a third party, or even by the lessor, the lessee should still have not only any relevant invoices but also other detailed documentation including, e.g., disposal reports and photographs of the premises before and after the disposal of the technical improvement.

To avoid any disputes, it is also crucial that the technical improvement will have already been removed on the day the premises are handed back to the lessor. Should the lessor instead keep the technical improvement, it would be a gratuitous transfer from the lessee's point of view and the tax consequences would be entirely different.

Gratuitous transfer of technical improvement

In practice, it is very common that a lease is terminated with the lessee neither putting the leased premises into their original condition nor receiving any reimbursement for the expenses incurred for the technical improvement from the lessor. This is evidently not an optimal tax solution.

In such a case, the net book value cannot be considered a tax deductible expense on the lessee's part. Moreover, the lessor generates non-monetary income and is therefore obliged to increase their tax base by the net book value of the technical improvement acquired free of charge. At the same time, the lessor may increase the cost of the leased premises by this amount and subsequently reflect it in their tax base through tax depreciation.

The gratuitous transfer of technical improvements to the lessor also has VAT implications. If the lessee claimed a VAT deduction upon their acquisition, their gratuitous transfer to the lessor constitutes a taxable supply and the

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lessee is obliged to pay output VAT.

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Employment legislation - what changes apply since 2025?

On 1 January 2025, the long-awaited amendment to the Employment Act entered into effect, bringing changes in labour inspection activities and the employment of persons with disabilities. The aim is to encourage employers to employ more persons with disabilities, and to prevent any possible circumvention of the law. The act also tightens checks by the labour inspectorate targeting illegal employment and disguised agency employment, as the legislators have given inspectors further tools to tackle these grey-economy areas.



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Employment of people with disabilities

For a while now, employers with more than 25 employees have been obliged to have at least 4 percent of their employees be disabled persons. Alternatively, they could purchase goods or services from recognised employers – typically products from sheltered workshops (alternative supplies) or pay a levy to the state budget.

Starting in 2025, it is no longer possible to purchase these alternative supplies from related parties within the meaning of the Income Tax Act. The amendment aims to prevent abuses in which corporate groups set up their own special purpose entity, and individual group companies then neither employ any disabled persons nor pay any levy to the state.

By increasing the levy to the state budget, the amendment also aims to motivate employers to employ persons with disabilities directly. Under the new rules, the levy will be divided into three bands, depending on the proportion of disabled persons employed:

- 0-1% - 3.5 times the average wage
- 1-3% - 2 times the average wage
- 3-4% - 1 time the average wage

The amendment will thus reduce the levy for employers who are close to meeting the statutory percentage of disabled employees and increase it for those who employ only a very small percentage of disabled persons or have no disabled employees at all.

Furthermore, a limit was introduced for state contributions for the operating costs of the employment of persons with disabilities. In the opinion of the Ministry of Labour and Social Affairs, the absence of any limit on this contribution gave way to abuse and false claims. Thus, a maximum contribution has been set, corresponding to 80% of the contribution for the actual wages and mandatory insurance premium costs. However, the above contributions only concern employees who have concluded an employer recognition agreement with the Labour Office.

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Stricter illegal employment checks

Two major changes have been introduced concerning the activity of labour inspectorates when checking employer compliance with labour law. Firstly, labour inspectorates will no longer be obliged to announce the commencement of audio and visual recordings during the inspection or in their activities preceding the inspection. According to the ministry, releasing this information often thwarted the purpose of the inspection. The inspectorate may make recordings in places that are publicly accessible or have been made accessible to the public. The records can then be used as evidence in offence proceedings.

If they suspect illegal work or disguised employment mediation, the inspection authorities will be entitled to cooperate with financial authorities as tax administrators and request the necessary information from them. This is a significant change from the previous situation, as tax proceedings are subject to strict confidentiality and tax authorities cannot usually disclose data to other administrative authorities. It is thus to be expected that inspections aimed at detecting forms of illegal work will increase, as has been the trend in recent years.

For some forms of illegal work and disguised employment mediation, it will also be possible to impose a penalty in the form of posting the decision on the penalty on the official noticeboard of the State Labour Inspection Office for a period of one year. According to the Ministry of Labour and Social Affairs, this is intended to further punish the perpetrators of these offences, as many entities may refuse to cooperate with them, e.g., to protect their own reputation.

However, legislation has also been relaxed in some respects. Inspectorates now may not initiate offence proceedings if the conduct in question shows a low level of social harm. The ministry thus hopes to reduce its own administrative burden when dealing with minor offences. The question remains how often this approach will be used in practice.

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Stricter rules on employment of foreigners on horizon

In connection with the preparation of the new Foreigners' Residence Act, the Ministry of Labour and Social Affairs proposes to introduce into the Employment Act a verified employer concept.



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Under the new rules, only employers with this status will be allowed to employ foreigners who need a work permit. Employers will be able to obtain this status by registering in a special register, after meeting several conditions. This is the second attempt by the ministry to tighten the conditions for employing foreigners. An earlier recognised employer proposal was not passed by legislators due to criticism from the government and the public. Should the ministry's proposal succeed this time, employers employing foreigners will be subject to additional administrative obligations.

Conditions for inclusion in the register

Registration in the register of verified employers will be made upon an application submitted by the employer who will have to prove that they meet certain conditions which will have to be met throughout their registration period. Compared to the earlier recognised employer proposal, the conditions for verified employers will eventually be less strict in some respects. First, the employer will have to operate in the Czech Republic and be a Czech tax resident in the meaning of the Income Tax Act. If they are also registered in the Commercial Register, they will have to have filed all financial statements, annual reports and other documents as appropriate in the Collection of Deeds.

Furthermore, the employer must have employed at least one employee who has been participating in social security and health insurance for at least six months. At the same time, the employer must not be in arrears with the customs and tax authorities or with social and health insurance institutions.

The ministry also aims to prevent illegal work and disguised employment mediation. Therefore, another condition for inclusion in the register will be that the employer was not penalised by the labour inspectorate in the 24 months preceding the submission of the application. For offences consisting of allowing illegal work, failure to cooperate with inspection authorities or a repeated breach of labour obligations under other laws, a fine exceeding CZK 100 thousand will be an obstacle to the registration. For disguised employment mediation, it will not be possible to register the employer in the register regardless of the amount and type of penalty imposed.

Support for start-ups

At the same time, the Ministry of Labour and Social Affairs has proposed a more lenient approach to selected categories of employers - an exemption from the obligation to employ at least one employee. The exemption will

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mainly benefit foreign investors (subject to meeting the specified conditions), state-owned enterprises, commercial corporations established and controlled by municipalities and regions for public purposes, or other employers whose inclusion in the register is in the interest of the Czech Republic. The exemption will also apply to employers engaged in selected economic activities to be defined by the government.

Uncertain prospects

If passed, the amendment will fundamentally change the employment of foreigners. However, given the failure of the previous legislative proposal, the fate of the bill is not yet certain. However, as some controversial or unpolished changes have now been eliminated, we expect wider support for this proposed amendment.

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Taiwan among countries with free access to Czech labour market

In mid-February, the government approved an amendment to its regulation expanding the list of countries whose citizens do not need work permits to work in the Czech Republic. Taiwan is now joining the nine countries for which this exemption already applies. This change will make relocation easier for Taiwanese citizens who decide to work in the Czech Republic. However, this does not mean that they will not need any permit to stay in the Czech Republic.



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Since 1 July of last year, citizens of Australia, Japan, Canada, the Republic of Korea, New Zealand, Great Britain, the United States of America, Singapore and Israel have had free access to the Czech labour market without any further conditions. The inclusion of Taiwan was envisaged from the very beginning, but it could not be on the original list because the exemption only allowed the inclusion of independent states, and the Czech Republic does not formally recognise Taiwan as an independent state. However, a recent amendment to the Employment Act also allows for the inclusion of separate jurisdictions, opening the possibility for relaxing the employment conditions for Taiwanese citizens.

Although Taiwanese citizens will no longer need a work permit, they still must obtain residence permits. Under a visa-free regime, they can stay in the Czech Republic for a maximum of 90 days, but this only applies to stays for non-gainful purposes, subject to specific exceptions. If they wish to work, they must obtain a suitable Schengen visa. For long-term employment, they need an employment card or a blue card, while, thanks to their free access to the labour market, they can obtain the employment card in the non-dual, i.e. residence-only, version. Blue cards continue to be exclusively dual - so the relaxation of rules does not bring significant simplification for applicants for this permit.

Despite the simplification of the rules, employers are still subject to the notification obligation. They must also keep in mind that even when employing a foreigner with free access to the labour market, they may commit illegal employment if the foreigner does not have the appropriate residence permit.

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Electronic signature - easy, fast, legally binding, and worry-free

A simple electronic signature is often perceived as less reliable than a handwritten signature on paper because it is not easy to prove who created it. However, recent court decisions have confirmed that it is fully valid for most common legal transactions unless the law requires an officially verified signature.



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What types of electronic signatures exist?

EU and Czech legislation distinguishes four categories of electronic signatures:

- A **qualified electronic signature** has the highest level of security and uses a certificate issued by a trusted authority.
- An **electronic signature guaranteed based on a qualified certificate** is more secure than a regular guaranteed signature, but its regulation is not as strict as for a qualified one.
- A **guaranteed electronic signature not based on a qualified certificate** allows to verify the identity of the signatory but is not as trustworthy as the previous two options.
- **Simple electronic signatures** include, e.g, a name in an email, a scanned signature, a click on a consent button, a signature made on a tablet, or a signature created in an app.

The **first two categories** are referred to as **recognised electronic signatures** and are the standard for communication with authorities. If you are addressing a document to a public authority, you must use one of these.

Signing in practice

In everyday life, a simple electronic signature is used all the time, e.g., when you sign a contract via DocuSign, send an email stating your name, or click to consent to terms of service. There has long been a debate about whether this type of signature is equivalent to a handwritten signature on paper and whether it can be considered legally binding.

The courts have now confirmed that for ordinary private-law acts, it is fully sufficient if it can be proven who signed the document and that they did so knowingly. Thus, if doubts arise, a signature's authenticity can be supported by further evidence, e.g., by the subsequent conduct of the parties in the performance of the contract.

After all, even a handwritten signature on paper does not provide 100 percent assurance of the identity of the signatory. A signature is only evidence based on which it can be determined with a certain degree of probability who made it. We should therefore apply the same approach to electronic signatures - there is no reason why they

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should automatically be considered less trustworthy.

Concerns about simple electronic signatures are often unnecessary. If you are signing a document electronically and a certified signature is not required by law, you do not have to worry about your signature not being valid. The only important thing is being able to prove who signed the document and that they did so knowingly. The courts have confirmed this practice, and more and more companies and individuals commonly use it.

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AMLA: new player in fight against money laundering and terrorist financing

The European Union is stepping up its fight against money laundering and terrorist financing. Last year, the new Authority for Anti-Money Laundering and Countering the Financing of Terrorism (AMLA) was created. Based in Frankfurt am Main, it will play a key role in countering financial crime across EU member states.



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By establishing the AMLA, the European Union is responding to the identified weaknesses in the effectiveness of supervision in the field of anti-money laundering, mainly due to cross-border entities. In fact, cooperation between the national supervisory authorities has proven to be insufficient.

What is the role of AMLA?

The AMLA will be the central watchdog authority for both the financial and non-financial sectors. It will directly exercise supervision over financial institutions, i.e., selected obliged persons, while it will supervise non-financial institutions, i.e., non-selected obliged entities, only indirectly.

The AMLA will also provide coordination and methodological support to the national supervisory authorities that will continue to supervise lower-risk entities. Similar to banking supervision authorities, the AMLA will issue guidelines, recommendations, and regulatory and implementing technical standards.

Who will be affected?

At this time, no information is available as to which entities the AMLA will oversee as selected obliged persons. These would likely be credit and financial institutions and groups of credit and financial institutions operating in several member states that will be assessed as high-risk. The AMLA will select these obliged persons in 2027, and it is already envisaged that there will be up to 40 of them.

As for non-selected obliged persons, the AMLA may, under certain conditions, instruct national supervisory authorities to conduct investigations or consider imposing sanctions. In certain cases, the AMLA may even take over the supervision over non-selected obliged persons.

Beginning when?

The regulation establishing the AMLA is already in force and will be applicable from 1 July 2025.Currently, staff and IT infrastructure are being secured, and the authority is expected to be fully operational by 2028.

The establishment of the AMLA will make the regulatory environment for anti-money laundering more stringent. Selected institutions will have to prepare for the new supervisory authority and possible changes in controls. Other entities may need to adjust their systems to comply with the new AMLA regulatory requirements.

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New import tariffs between Europe and US on horizon

The change in the political representation of the United States of America is causing considerable tension in international trade. President Donald Trump wants to impose retaliatory tariffs on imports of goods into the United States, which will undoubtedly have both fiscal and economic consequences, including on a global scale. According to the US political representation, the reason for the introduction of protectionist measures is the unequal position of the US and other countries in international trade.



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Countries around the world have the option to introduce protectionist measures in the form of import tariffs, quotas, boycotts, thresholds or technical standards to protect their national economies. In recent decades, the global approach to international trade has been fairly liberal. However, some countries have retained the option to protect important areas of their economy (e.g., the automotive industry of the leading powers).

First retaliatory tariffs: Canada, Mexico and China

The United States started to apply tariffs on imports of goods from Canada and Mexico (at a rate of 25 percent), while increasing by a further 10 percent tariffs on imports of iron and aluminium products from the People's Republic of China. The reason is the long-term negative merchandise trade balance, which means that the United States import more goods into their economy than they export out of it. This is not necessarily a bad thing from an economics perspective, as the United States finance the greater import of goods with the inflow of foreign capital. Other protectionist reasons accompany the introduction of tariffs, such as aiming to prevent the import of drugs into the United States.

Possible impact on European exporters

The US president's rhetoric suggests that the US will not stop at the countries named above, and that they may soon be joined by India, Taiwan, and the European Union. For European exporters, this would mean a drop in demand (the US is the EU's largest trading partner). Last week, the EU responded to the possible introduction or increase of import tariffs by pointing out the need to include in the trade balance also services, not just goods. After considering the negative balance for services on the EU’s part, the overall trade balance between the US and the EU is a difference of around 1 percent.

Implications for the US and international trade

On one hand, protectionist instruments may quickly resolve inequalities in international trade in the short term. Particularly in a large, advanced and open economy such as the United States, these measures may primarily help domestic producers, as due to its position, the US may for some time be able to influence the import prices of

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foreign producers. The introduction of import tariffs will of course also result in more revenue for the US Treasury. However, the downside of such measures lies in its global implications. Import tariffs on goods will make the inputs of local importers more expensive, which will raise their selling prices, worsen the position of US exporters, and reduce the American consumers' purchasing power. Additional tariffs on steel and aluminium imports from China will hit the US automotive industry, which will see a rise in input prices. In the short term, new jobs will be created. However, due to a lack of competitiveness, the multiplier effect may cause job losses in adjacent industries, i.e., those linked to imports of goods to the US. Finally, the increase in prices of imported products will cause inflationary pressures.

An overzealous introduction of protectionist measures may also trigger trade wars between countries in the form of further retaliatory tariffs. It should also be remembered that historically, the United States have benefited from the balance of trade in goods in other ways. The US dollar is the transaction currency in most transactions in international trade, and it is also the reserve currency of other central banks, which allows the United States to finance the deficit on favourable terms thanks to the high demand for the US dollar.

It is very difficult to predict the reaction of individual countries to the new US trade policy. However, from an economic point of view, the introduction of protectionist measures will not be beneficial in the long term, as it makes the free market mechanism of international trade disappear. Long-term studies show that countries with an open trade regime achieve higher GDP growth and better productivity.

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Subsidies

Modernisation Fund prepares new subsidies for photovoltaics

The State Environmental Fund of the Czech Republic has published a time schedule for calls that are to be announced under the Modernisation Fund in 2025. This year will see, among other things, several new calls providing support for photovoltaic power plants (PV plants), the two of which are of a particular relevance to businesses, including large enterprises.



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Call RES+ No. 1/2025 – Self-consumption PV plants with a capacity between 10 kW and 5 MW

This call will provide support for the installation of PV plants with a capacity of 10 kW to 5 MW whose produced electricity will primarily be self-consumed. The call is scheduled to be launched on 15 March 2025, with the possibility to apply from 1 July 2025 to 31 January 2026. The funds for allocation are CZK 3 billion.

PV plants with a capacity of more than 1 MW

The Modernisation Fund also plans to announce a call to provide support for PV plants with a capacity of over 1 MW, but the full details of the call will not be specified until the second quarter of 2025.

Applicants for support can be existing or future holders of licences for electricity generation; however, experience from previous calls indicates that such a licence will not need to be presented upon the submission of the subsidy application.

We will keep you informed of further details. If you would like to consult with us about your planned project, please do not hesitate to contact us.

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Applications programme: subsidies for digital solution development

In cooperation with the Agency for Enterprise and Innovation, the Ministry of Industry and Trade has announced Call II under the Applications programme to support digitisation.



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This call aims to promote technological progress and enhance the competitiveness of enterprises by supporting the development of innovative digital solutions. Enterprises of all sizes can apply for this type of support, but large enterprises must carry out their project in effective cooperation with an SME. Applications for support can be submitted until 20 May 2025.

The funds for allocation under this call are CZK 1.5 billion, with a subsidy of up to CZK 50 million per project. For large enterprises, the aid intensity has been limited to 40% of eligible expenses, which include personnel expenses, contract research and R&D consultancy service expenses, and other fixed expenses. Areas supported include e.g. artificial intelligence and machine learning (including big data and security), cyber security, advanced manufacturing and robotics, sustainable energy and low-emission technologies, and communication and networking technologies.

The project output must be at least one digital solution. Projects can be implemented in the whole territory of the Czech Republic except Prague, and applicants can only submit a maximum of two projects under the call.

If you are interested in obtaining this support, we will be happy to check the compliance of your activities with the terms of the call.

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Labour Inspectorate against disguised employment mediation

Inspection activities targeting disguised employment mediation have long been a priority for the Labour Inspectorate. Typical examples of this illegal outsourcing are situations where a company is short of employees and decides to subcontract certain activities. Although the contract looks like a contract for work or services, it is in fact the hiring of labour, as the workers perform work for the customer as if they were the customer's employees. Both the provider and the receiving employer can then be fined up to CZK 10 million, as only an employment agency licensed to mediate employment under the Employment Act can legally provide workers for remuneration.



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The Labour Inspectorate does not hold back when imposing fines. A recent case has confirmed this trend: according to the Labour Inspectorate, the audited company allowed disguised employment mediation by hiring labour from other legal entities without complying with the conditions of the Employment Act. Specifically, a total of 50 persons from Ukraine, Romania, Bulgaria, Lithuania, and the Czech Republic worked for the company based on contracts for work. However, the company controlled their work activities, provided them with equipment and checked their shifts – therefore, it was not in fact work under a contract for work but the provision of labour without an employment agency licence. As a result, the company was initially fined CZK 5 million, which the inspectorate reduced to CZK 3,200,000 on appeal.

The company defended themselves by filing a cassation complaint with the Supreme Administrative Court, which nonetheless upheld the decision of the Labour Inspectorate and considered the fine imposed to be proportionate to the seriousness of the offence.

According to the company, the amount of the fine was destructive. However, the Supreme Administrative Court confirmed in its decision that the fine was reasonable and reflected the company's financial situation (the company reported a cumulative profit of CZK 30 million for 2021 to 2023, although they argued that their profits were declining while their costs and investment expenditures were increasing). The court also found that imposing a symbolic fine would not be a proportionate sanction for a breach of legal regulations. In doing so, the court emphasised that the amount of the fine would have been destructive only if it could in itself cause the company's insolvency or make it discontinue its business operations.

Considering the above case, we can say that for disguised employment mediation, the Labour Inspectorate imposes relatively high fines, approximating the upper limit of the statutory rate, and that the Supreme Administrative Court confirmed this. The boundary between legitimate outsourcing and disguised employment mediation is unclear.

However, employers can avoid fines if they have their contracts with suppliers checked to verify that the cooperation is set up correctly and in accordance with the law.

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Joint and several liability for supplies without tax documents in customer-supplier relations

The Court of Justice of the European Union (CJEU) has dealt with the joint and several liability of individual entities in a chain of transactions in the event of tax evasion. The CJEU answered the question of whether it is right to hold companies that allowed fraud liable for tax unpaid by their 'customers'. It concluded that joint and several liability was appropriate in the present case.



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Dranken, a Belgian drinks retailer, had an elaborate system of issuing false tax documents and at the same time selling goods without tax documents: the company issued invoices to customers to whom they did not supply goods and, in turn, supplied goods to other entities - cafés and hotels - without invoices. The tax authorities therefore accused the company of *de facto* allowing the cafés and hotels to sell drinks 'on the black market' to avoid paying tax.

Belgian legislation provides that each taxable person is jointly and severally liable for the payment of the tax if they knew or should have known that the tax would be deliberately not paid in the chain of transactions. The penalty in such a case is twice the amount of the evaded tax.

The importance of vetting a business partner

The CJEU then dealt with the issue whether such a principle of objective joint and several liability is compatible with EU law (in particular the VAT Directive) and whether the persons jointly and severally liable for the tax should be allowed to deduct input VAT.

The CJEU first reiterated that the principle of proportionality requires that a member state's measures shall not go beyond what is necessary to protect public budgets. In other words, measures designed to protect public money must not be excessive.

As for joint and several liability, the CJEU concluded that it is permissible where the recipient knew or should have known of the intentional non-payment of tax, provided that such a presumption is rebuttable. This means that the taxpayer may prove that they did everything they could to avoid the fraud, without such proof being too difficult or impossible for them to obtain.

The CJEU also stated that if someone is involved in fraud, they cannot claim input VAT deductions. In the case at hand, the CJEU ruled that if Dranken knew or should have known that the tax would not be paid, they could be held liable for the non-payment of the VAT.

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The judgment shows the importance of caution and the thorough vetting of business partners. This prevents the unwitting involvement in potential tax fraud.

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Case law

Indirect shareholding expenses: burden of proof always on taxpayer

The Supreme Administrative Court (SAC) dismissed the cassation complaint of one of the best-known holding companies in the Czech Republic that had disagreed with the adjusted amount of indirect expenses for holding shares in its subsidiaries to be excluded from tax deductible expenses. According to the SAC, the company did not bear its burden of proof, as it only submitted differing and incoherent calculations that lacked a consistent methodology and contradicted its own calculations.



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Under the Income Tax Act, a parent company's expenses incurred in holding a share in a subsidiary are not tax deductible. For indirect expenses, there is the rebuttable presumption that they amount to 5% of dividends received unless the taxpayer proves that their amount was lower.

This rule is based on the principle that income from dividends generated by the parent company is usually tax exempt and therefore the related expenses cannot be tax deductible.

In the present dispute, the tax administrator did not accept the amount of indirect expenses for holding shares in subsidiaries of CZK 96 million declared by the taxpayer, claiming that the calculations presented contained fundamental inconsistencies and errors. Among other things, the tax administrator pointed out that the company had incorrectly reduced its cost base by income from the provision of services to subsidiaries, income from invoicing guarantees, and tax depreciation charges and tax residual values. The tax administrator further held that the company had failed to include in the cost base the wage expenses of its members of management. According to the tax administrator, there was a lack of credibility as the company had submitted several differing calculations and kept changing them during the proceedings. Because of these shortcomings and the resulting doubts, the tax administrator set the indirect expenses as a percentage: 5% of the dividends received (CZK 286.5 million).

In the course of the appeal proceedings, the company adjusted the amount of the originally declared calculation of indirect expenses from CZK 96 million to CZK 160.5 million and declared further expenses to avoid the setting of indirect expenses on a fixed-percentage basis resulting in an even higher amount of these expenses.
The Appellate Financial Directorate accepted this adjustment and assessed an additional tax based on this amount. The company, nevertheless, lodged a cassation complaint against this decision.

Within the cassation complaint proceedings, the Supreme Administrative Court stated that it was primarily the taxpayer's responsibility and in their own interest to assert and prove the actual amount of indirect expenses. Since they had not done so, the indirect expenses had been assessed on a fixed-percentage basis. Only then had the company offered its own calculations, and the resulting amount of those expenses was accepted by the Appellate Financial Directorate and subsequently confirmed by the municipal court.

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In view of the above, the Supreme Administrative Court thus dismissed the cassation complaint, fully agreeing with the procedure of the tax administrator and the first-instance court, pointing out that the company's argumentation had been inconsistent and illogical, as it paradoxically had questioned its own calculations during the proceedings. Accordingly, the amount of the indirect shareholding expenses was left in the adjusted amount of CZK 160,5 million.

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Case law

SAC on proving tax deductibility of repair costs

The Supreme Administrative Court (SAC) ruled on the issue of proving the tax deductibility of costs for the overhaul of an evaporator. In its judgment No. 2 Afs 70/2024, the SAC confirmed that the burden of proof lies with the taxpayer who must conclusively prove the extent and manner of incurring the costs, including the identity of the contractor.



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In a tax inspection, a company claimed that they had hired a subcontractor to overhaul their evaporator. To prove this, the company submitted to the tax administrator a construction log with information on the ongoing construction work on the premises, in which the contractor had also recorded the details on the repairs to the evaporator. The company also proposed to take witness statements of the contractor's representatives and other persons. However, the tax administrator did not consider the submitted construction log to be sufficient. In their view, it did not contain sufficient records of the repairs, their extent and who had carried them out. The witness statements were assessed similarly: they were of a general nature and did not correspond to the taxpayer's assertions. The Regional Court agreed with the tax administrator.

The SAC then also assessed the content of the construction log, with similar outcome: in the SAC's opinion, it did not contain specific information about the repairs. While the SAC agreed with the taxpayer that they were not obliged to capture the information on the repairs in the construction log in more detail, it pointed out that it was entirely up to the taxpayer to decide what level of risk they would take if they did not obtain sufficient supporting documentation to prove their incurred costs, on a continuous basis. Nor can full reliance be placed on witness testimonies, which in this case the SAC found to be inconclusive and unreliable. The SAC also disagreed with the taxpayer on the issue of claiming minimum costs: the SAC referred to its previous decisions, under which it is possible to claim minimum costs only if the taxpayer proves that they incurred the cost in question, although under circumstances different from those originally asserted. However, the taxpayer did not assert this in the case at hand.

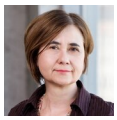
The SAC judgment confirmed that the burden of proof lies with the taxpayer who must convincingly prove the extent and manner of incurring the costs, including the identity of the contractor. Construction logs and witness statements, although relevant, may not be sufficient if they do not contain specific information about the work carried out. Once again, it has become apparent that taxpayers need to keep detailed documentation of costs incurred to support them in a tax inspection.

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In brief

News in Brief, March 2025

Last month's news in one or two sentences.



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BRIEFLY FROM HOME

- The Minister of Finance has decided to waive the interest incurred as a result of the tax payment deferment connected with the floods in the autumn of 2024. It will not be necessary to apply for the waiver of interest or to provide the reasons, as these were already considered when the decision about the tax payment deferment or the spreading of the tax into instalments was made.

- The chamber of deputies has sent to the second reading a government bill amending Act No. 563/1991 Coll., on Accounting, Act No. 93/2009 Coll., on Auditors, and Act No. 416/2023 Coll., on Top-Up Taxes for Large Multinational Groups and Large Domestic Groups. The bill increases the limits for the categorisation of entities, extends the range of entities liable to sustainability reporting, and amends the Act on Top-Up Taxes, e.g., postpones the deadlines for filing tax returns and incorporates changes to ensure the qualified status of the Czech top-up tax in the future.

- An amendment to the Act on Certain Measures in Connection with the Armed Conflict on the Territory of Ukraine Induced by the Invasion of the Troops of the Russian Federation (No. 24/2025 Coll.) has been published in the Collection of Laws, regulating certain immigration aspects and tax relief in respect of donations. The amendment is effective from 11 February 2025.

- Act No. 32/2025 Coll., amending certain laws in connection with the implementation of EU regulations concerning financial market digitalisation and sustainability financing, has been published in the Collection of Laws, which, among other things, introduces the possibility to exempt income from the sale of crypto assets from personal income tax. This amendment is effective from 15 February 2025.

- GFD Instruction No. D-67 on the waiver of tax-related interest and penalties has been published in Financial Bulletin No. 5/2025.

- The financial administration has launched the Tax Echo II project, which focuses on incorrectly claimed spouse's tax credit for 2022. A total of 3,502 taxpayers are being contacted, both via data box and by post. This measure is expected to bring up to CZK 80 million to the state budget.

- The approved Act on the Legal Profession has been submitted to the president for signature. Among other

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things, it increases the protection of attorney–client privilege and addresses the issue of an attorney's escrow to minimise the possibility of their abuse and misappropriation. There has also been a shift in the digitisation of juridical acts by attorneys and trainee attorneys. The law also provides for more flexible conditions (part-time) for trainee attorneys.

- The Ministry of Industry and Trade has launched an on-line database of information obligations in which entrepreneurs can find an overview of their legislative obligations. All information is available as an open database with the possibility of free export, and for each obligation there is information on how it can be fulfilled. The individual obligations will regularly be updated by the relevant ministries. The database is available at https://dip.gov.cz.

BRIEFLY FROM ABROAD

- The Supreme Administrative Court (SAC) has referred to the Court of Justice of the EU (CJEU) a request for a preliminary ruling concerning the compliance of the Czech implementation of the Interest and Royalties Directive with EU law. The involved dispute concerns a company whose retrospective exemption from withholding tax on royalties for the 2014-2016 period was denied by the Czech tax authorities. Only an exemption for the years 2017 and 2018 was granted based on the interpretation of the time limit set out in the EU directive (not in the Czech legislation). The question is whether a decision on exemption can be issued retrospectively. If so, then by when the taxpayer must apply for the exemption, i.e. for how long a period preceding the application the exemption can be granted.

- The EU Council has updated the list of non-cooperative tax jurisdictions, removing Costa Rica and Curaçao from this list.

- The European Commission has presented its work programme that aims to reduce the administrative burden on companies by 25% and introduce a single '28th regime' for innovative companies, which should simplify and harmonise their operations across the EU, including taxation. The plan includes several tax-related directives, which, with the exception of DAC 9 (exchange of information under Pillar 2), will not be prioritised.

- The German Ministry of Finance has published the final administrative principles for transfer pricing applicable from 2024. The update includes major changes to the rules for financing between related parties. It also simplifies and unifies the application of the arm's length principle for basic marketing and distribution activities provided in connection with the sale of goods. Based on the new administrative principles, the German tax authorities will treat as correct those transfer pricing transactions that comply with the approach set out in the OECD report Pillar One – Amount B of 19 February 2024.

Developments in Pillar 2 (minimum taxation)

- France is proposing modifications to the Pillar 2 rule based on OECD regulations published since the law was passed, such as ensuring the qualified domestic top-up tax status and modifying the safe harbour rules.
- Denmark is preparing modifications to its domestic law based on OECD regulations published after the law came into effect and further extends the tax payment deadline.
- The United Arab Emirates has put in place a legislative framework to implement the Pillar 2 rules, joining other countries with such regulation.

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The KPMG EU Tax Center regularly monitors changes in direct taxes in the EU and internationally. For a complete overview of the latest news, please see the 7 February and 26 February 2025 issues.

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