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In brief

News in Brief, April 2025

Editorial

With the arrival of spring, nature awakens and so does the tax and legal environment, bringing with it many new challenges. Several innovations have sprouted in transfer pricing – we will discuss them in detail at the Transfer Pricing Forum on Wednesday 16 April, to which I am cordially inviting you. In a pre-Easter atmosphere, we will share with you the latest findings and trends in the field. The forum has become an opportunity to reflect on current topics and share our experiences from the past year, along with inspiring guests from the governmental sector. This time, we will interview Director of the Tax Collection Section at the Specialized Tax Office Ludmila Klimesova on tax inspections and other topics.

The constantly changing world of taxes is in stark contrast with centuries-long Easter traditions, although there are new ones that sometimes surprise even those of us who thought that nothing could surprise us anymore. Did you know that Australia has the Easter bilby instead of the Easter bunny? The bilby, a cute marsupial, has taken over the bunny's role to promote the fight for endangered species. In Sweden, children put down the bunnies to take up broomsticks at Easter and go around as witches, reciting poems in exchange for sweets. In Norway, everyone immerses themselves in reading and watching crime stories known as 'Påskekrim'. And if you happen to be in Austria, watch out for your bike – according to a hilarious Easter tradition here, locals like to "kidnap" and hide anything with tyres.

As diverse and sometimes ridiculous as the traditions are, they all have one thing in common – the idea of hope and a new beginning. Whether you will be decorating eggs or roasting a lamb, remember that Easter is not just about bunnies and decorated eggs, but mainly about joy and laughter.



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Taxes

Single monthly employer reporting and related changes to income tax

In the beginning of March 2025, the government approved a bill on single monthly employer reporting (in Czech Jednotné měsíční hlášení zaměstnavatelů or JMHZ), which the Ministry of Labour and Social Affairs wants to launch from 2026. It should reduce the administrative burden for businesses as regards their employees: today's 25 reports to various institutions (social security administrations, labour offices, the Ministry of Labour and Social Affairs, the Czech Statistical Office and tax administration authorities) will be replaced by one, to be filed by the employer within a single deadline. This will eliminate the multiple collection of repetitive data.



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We reported on the bill in December 2024 in our article titled Proposal to simplify administration - single monthly employer report.

Along with the bill, a proposal to amend related laws that impose information obligations on employers vis-à-vis government authorities has been submitted to the chamber of deputies, including an amendment to the Income Tax Act.

Proposed amendment to the Income Tax Act

With effect **from 1 January 2026**, it is proposed to abolish withholding tax on remuneration paid to corporate body members who are individuals and Czech tax non-residents. Withholding tax will only remain for legal persons exercising the office of a member of a corporate body. This will eliminate the inequality in taxation of individuals based on their tax residence.

With effect **from 1 January 2027**, it is further proposed to fully abolish withholding tax on income from dependent activity. This change will affect income from agreements to perform work (outside employment) whose aggregate amount with the same employer in the calendar month does not reach the threshold for participation in sickness insurance, and income from small-scale employment (e.g. income from agreements to carry out a job or from remuneration for exercising an office whose monthly amount does not reach the threshold for participation in sickness insurance, etc.) where the individual did not sign a declaration of a taxpayer liable to personal income tax from dependent activity.

For taxpayers with income from dependent activity, it is proposed to introduce the obligation to file a tax return unless they ask their employer to make the annual settlement of tax prepayments. For individuals who are Czech tax non-residents and receive remuneration as members of corporate bodies, this obligation should apply only if their aggregate annual income from remuneration for exercising the office in the Czech Republic exceeds 36 times

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the average wage.

In the second phase of the single monthly employer reporting project, it is planned to introduce a new service: the pre-filling of tax return forms using information obtained from the single monthly employer reports.

The bill on single monthly employer reporting was submitted to the chamber of deputies for debate on 11 March 2025.

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Possibility to deduct interest on loans extended

The chamber of deputies is currently debating a legislative proposal to amend certain laws in connection with the adoption of the Housing Support Act. The bill contains numerous measures that should contribute to greater affordability of housing.



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During the second reading on 5 March 2025, an amending proposal was submitted in the chamber of deputies extending the possibility to deduct interest from an individual's income tax base: apart from interest on mortgage loans, it may now also be possible to deduct interest on housing cooperatives' loans.

Under the current wording of the Income Tax Act, subject to certain conditions, individuals may deduct from their tax base interest on loans under building savings plans, mortgage loans, or loans provided by a bank or a building society if they use them to finance their housing needs.

Cooperative housing is usually associated with the payment of an annuity – an obligation to repay a portion of the housing cooperative's loan corresponding to the taxpayer's share in the cooperative, including the portion of the interest on the loan that the cooperative pays. Up until now, individuals have not been able to deduct this interest from their income tax base.

The proposed change would allow taxpayers to deduct from their tax bases a *pro rata* portion of interest on the cooperative's loan corresponding to their share in the cooperative.

The proposal also contains several conditions for claiming the deduction: the taxpayer must be a member of the housing cooperative and must pay interest on the housing cooperative's loan – usually as part of the annuity, and the apartment must be used for the permanent residence of the taxpayer or their close relatives. Other conditions applicable under the previous wording, e.g., a maximum possible deduction in a taxable period, will also apply.

The effective date is proposed to be 1 January 2026. Taxpayers may therefore be able to claim these deductions for the 2026 taxable period regardless of the date of their membership in the housing association or the conclusion of the loan agreement.

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Employee stock option plans: GFD information for 2024 and 2025 taxable periods

The GFD has recently issued its information for employers and employees in connection with employee income from the acquisition of a share in a business corporation or an option to acquire such a share under employee stock and option plans in the taxable period of 2024 and 2025.



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We informed you about the approved wording of the amendment in the March *Tax and Legal Update*. Under the amendment, unless an employer has notified the tax administrator that they have chosen the postponed taxation, their employees' income from stock option plans received before the effective date of the amendment would be taxable in the second month after the amendment's effective date or would be a taxable income of the 2025 taxable period.

Given that the Ministry of Finance and the originally proposed wording of the amendment had already assumed last year that income received in 2024 could be taxed using the same method of taxation as was applicable until the end of 2023 – i.e. the related income from employment would be taxable in the month of acquisition of the share or transferable option – some employers have been determining the taxable moment of the employees' income in 2024 as per the wording in effect in 2023.

The GFD has now formally acknowledged this approach in the published information and **confirmed that for the 2024 taxable period and for the portion of the 2025 taxable period before the amendment's effective date, the financial administration shall accept the taxation of employees' income from stock option plans according to the legislation in effect until 31 December 2023**.

The financial administration will also accept this approach where the taxation takes place within a tax return. According to the information, an individual (employee) will be able to choose whether to include the income from employee stock option plans received in 2024 in their 2025 tax return (assuming the employer did not choose postponed taxation) or to include it in the 2024 tax return in accordance with the amendment.

Neither the Czech Social Security Administration nor the health insurance companies have commented on the matter to date.

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GFD unifies procedure for waiving tax penalty and interest

The General Financial Directorate has issued Instruction D-67, which unifies the procedure of waiving tax accessories – fines, penalties, or interest. The instruction is effective from 1 March 2025 and brings several changes compared to Instruction D-58.



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The new instruction changes certain elements of the tax administration's decision making where a taxpayer has applied for a waiver of a fine for the late filing of a tax return or a waiver of a portion of a tax penalty or late payment interest.

The instruction expands the list of justifiable grounds on which a fine for late tax assertion may be waived. The new grounds are, among others:

- the tax assertion was filed late by the taxpayer but the tax was paid in full within the original or substitute deadline (where any tax was payable),
- the delay in the filing of the tax assertion did not exceed 15 calendar days,
- the fine arose upon a late-filed tax assertion without the tax administrator's call.

In the first two cases, the tax administrator may waive **70 percent** of the fine, in the last case, **50 percent**.

As regards tax penalties, the instruction abolishes two types of breaches of taxpayer obligations that have now become obsolete (related to the personal initiation and termination of a tax inspection).

The instruction also tightens the criteria for the assessment of an individual's adverse economic and social situation: only situations involving persons with income below 48 times the minimum wage shall be considered unfavourable. Also, the amount of the waiver will be reduced by half where the taxpayer "*has had more than one tax debt in the last three years, for which the tax administrator has initiated enforcement proceedings under the Tax Procedure Code."*

Finally, we would like to remind you that although the list of justifiable grounds for waivers is not exhaustive, we recommend abiding by them. Indeed, recent court decisions in which taxpayers have claimed grounds beyond the scope of the instruction, such as the excessive length of tax proceedings (5 Afs 317/2023) or a tax advisor's error (5 Afs 314/2023), confirm that it is very difficult to obtain a waiver for reasons not listed in the instruction.

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Tips and tricks

Contest marketing and income tax: what to watch out for

When preparing marketing contests, it is important that organisers bear in mind possible tax implications. The taxation of winnings, VAT deductions, or the tax deductibility of costs – all these affect the financial efficiency of contest marketing. Incorrect contest setups may lead to additional costs or penalties.



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Contest marketing is an effective tool that businesses use to build brand awareness, increase customer engagement and boost sales. The contests attract the attention of potential customers and create opportunities for interaction with existing clients. What to watch out for from an income tax perspective?

Corporate income tax

When organising marketing contests, businesses incur costs for various activities: from the organisation and promotion of the contest to the provision of winnings and refreshments at the prize award ceremony. However, there are no specific income tax rules for the treatment of these costs as a whole, so each must be assessed on an individual basis.

If the Income Tax Act contains a specific provision regulating a specific type of cost/expense, then it must be treated in accordance with that provision. For example, the costs of refreshments are not tax deductible, even though they may have been incurred in connection with the organisation of a marketing contest. If the act does not specifically regulate the cost/expense in question, then it must be treated according to the general rules. The key factor then is whether the expense was incurred for the purpose of generating, securing, and maintaining taxable income. If this is the case, the costs of marketing contests may be regarded as advertising and promotion cost/expense that can be tax deductible.

Contest organisers must also consider the withholding personal income tax that they pay on behalf of the winners of non-monetary prizes. This tax, same as VAT, can be regarded as a tax deductible cost/expense. Proper tax treatment always requires careful record-keeping and documentation of all related costs and taxes.

Personal income tax

Winnings from contests can also be a tax pitfall for the winners. The person of the winner is crucial, as it determines the tax treatment.

For individuals, winnings up to the value of **CZK 50,000** are exempt from tax. If the value of the winning exceeds this amount, the entire amount of the winning is subject to a withholding tax of **15 percent**. Where a prize was won in connection with a business or employment (i.e. an employee could not have won the prize if they had not worked for the relevant employer), the exemption limit of CZK 50,000 does not apply. Entrepreneurs (self-employed individuals) shall tax their winnings as income from business activities and employees as income from employment.

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Entrepreneurs should pay increased attention to contests with an international element. Here, the rules of the double taxation treaty between the Czech Republic and the winner's country must be considered. Prizes are usually regarded as other income and are subject to taxation in the country of residence of the winner.

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Working conditions under scrutiny – deputies pass 'Flexinovela'

At the beginning of March, the chamber of deputies approved a closely watched amendment to the Labour Code, the 'Flexinovela', which will introduce significant changes. It will now be discussed by the senate and then submitted to the president for signature. It is expected to enter into force at the beginning of June. Despite its title, apart from bringing more flexibility, the amendment also imposes new obligations for employers.



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Most of the central points of the amendment already reported on here passed the third reading without major complications. Notice periods shall thus change and run from the date of delivery of a notice, rather than from the beginning of the following month. Also, a shorter notice period of one month is to apply in cases of punitive terminations of employment. The maximum trial period shall also be extended, to four months for common employees and eight months for senior staff, and it will be possible to extend it additionally. The rules for substitutes for employees on maternity or parental leave, additional earnings during parental leave, and returns to work after the end of parental leave will also change.

During the debate in the chamber of deputies, several amending proposals were submitted and approved:

The key change is the prohibition to include a confidentiality obligation regarding the structure and amount of their wage in an employee's contract. This is currently common practice with many employers. Contracting such a clause will also be regarded as an offence under the Labour Inspection Act, and inspectorates will be able to impose fines of up to CZK 400,000. This will not only apply to newly concluded contracts but also to those concluded before the law entered into force – employers should therefore remove these clauses from their employment contracts as soon as possible.

On the other hand, this obligation will not affect any contracted obligation of an employee to maintain confidentiality regarding the structure, amount and method of remuneration of other employees.

The amendment also introduces a health programme, i.e., a set of measures designed to enable employers to make better use of health prevention tools and ensure better employee health. The programme will be voluntary for both the employer and the employee. The specific framework and instruments of this programme are hard to predict – they are to be specified by the Ministry of Health in a decree but the proposed wording of the decree has not yet been submitted.

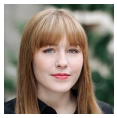
Among rejected amending proposals were the termination by notice without stating grounds, and the requirement to maintain the current length of trial periods. Neither of these proposals found sufficient support in the chamber of deputies.

Although the amendment was significantly curtailed during the long legislative process, it still brings significant changes that will affect the working environment. In many respects, it is the right step towards modernising Czech labour law. One can only hope that the trend towards greater flexibility in employment regulation will continue.

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Employers must disclose wages

The European Union has taken a major step towards closing the gender pay gap and strengthening equality in the workplace. EU Directive 2023/970, adopted on 24 April 2023, introduces revolutionary changes to pay transparency and the protection of employee rights. Member states are obliged to transpose the directive into their legal systems by 7 June 2026.



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Currently, the average gender pay gap in the European Union is 12 percent. In the Czech Republic, it is as high as 18 percent. One of the main objectives of the new directive is thus to increase pay transparency. Employers in the EU will be obliged to publish information on starting salaries or salary ranges for individual positions. Job applicants will thus have access to information that will enable them to negotiate fair pay. The directive also prohibits employers from asking applicants about their previous pay, which should prevent the continuation of unequal treatment from previous employment.

Existing employees will also benefit from the directive, as they will now have the right to be informed of their individual pay level and of the average pay levels for categories of employees doing the same work or equal work, broken down by gender. Employers will also be obliged to provide employees with easy access to the criteria used to determine pay levels and pay progression.

Mandatory pay gap reporting

For employers with more than 100 employees, the directive introduces an obligation to report the gender pay gap. Employers with more than 250 employees will have to do so annually, smaller ones every three years. If the pay gap exceeds 5%, the employer will be obliged to take action to close it.

Compensation for discrimination

Discriminated-against employees may claim from their employer compensation of damage incurred because of the breach of the equal pay obligation. The amount of the compensation will depend on the financial situation the employee would have been in had there been no discrimination. The burden of proof will be on the employer who will have to prove that no discrimination in relation to pay had been present.

As the Czech bill is not yet available, we will have to wait for its final wording.

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Simplifying ESG rules: reporting and due diligence

The European Commission has presented the Omnibus I (ESG) and Omnibus II (investment) legislative packages, which aim to simplify ESG reporting rules and reduce the administrative burden for businesses. The initiative is part of a broader effort to boost the competitiveness of EU businesses, facilitate investment, and foster innovation.



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ESG reporting

Among the key changes is a modification of the Corporate Sustainability Reporting Directive (CSRD). Under the proposal, the obligation to publish sustainability reports is to apply only to large companies with more than 1,000 employees if they meet at least one of the financial criteria – an annual turnover of more than EUR 50 million or a balance sheet total of more than EUR 25 million. This would reduce the number of companies covered by the CSRD by around 80%.

The obligation to report under the EU taxonomy is also being reduced. Large companies with a turnover of more than EUR 450 million and more than 1,000 employees will be subject to an "opt-in" regime, i.e., they can choose to report voluntarily. It is also proposed to postpone by two years the reporting obligation for companies that were to report under the CSRD in the second wave (i.e., large businesses that are not public interest entities and have more than 500 employees, and large businesses that are a parent company of a group with less than 500 employees). Changes are also being made to the Carbon Border Adjustment Mechanism (CBAM).

Supply chain due diligence

The changes also concern the Corporate Sustainability Due Diligence Directive (CSDDD), which regulates the rules for supply chains. The new due diligence obligation is to cover only direct suppliers rather than the entire value chain. Businesses should only consider indirect suppliers if credible information has come to their attention about adverse impacts at the level of these suppliers (e.g., if the structure of the business relationship indicates that it was chosen with the aim to eliminate an otherwise direct supplier, or if the business has information from NGOs or the media about the harmful activities of an indirect supplier).

The intervals at which businesses shall assess the adequacy and effectiveness of their due diligence measures are also to be extended, from one year to five years. Postponement by one year has also been proposed for this directive.

Other changes

The European Commission also intends to simplify the rules of the InvestEU programme to reduce the administrative burden for businesses. Omnibus II is to simplify the definition of medium-sized and small enterprises (SMEs) for the purposes of InvestEU and to remove the obligation to monitor key performance indicators (KPIs) for smaller transactions. In addition, the frequency of reporting under InvestEU and its

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predecessor, the European Fund for Strategic Investments, should be reduced.

Next steps

The proposals are now at the beginning of the legislative process and await approval by the European Parliament and the Council of the EU. In early April, the European Parliament will vote whether to fast-track the postponement of non-financial reporting and supply chain due diligence.

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Simplified CBAM application rules

The European Commission has presented new packages of legislative proposals (Omnibus I and II) aiming to simplify the current EU environmental rules. This will promote a more business-friendly environment allowing European companies to grow, innovate, and create quality new jobs. The proposed changes also affect the carbon border adjustment mechanism (CBAM).



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The Commission aims to achieve a reduction in administrative burden of at least 25 percent for businesses and at least 35 percent for small and medium-sized enterprises (SMEs) by the end of its mandate. The Omnibus packages, bringing together proposals in several related legislative areas, significantly simplify ESG financial reporting, sustainability obligations, the EU taxonomy, the Carbon Border Adjustment Mechanism (CBAM), and European investment programmes.

Key changes in the Carbon Border Adjustment Mechanism (CBAM)

As regards CBAM, the exemption of small importers from CBAM obligation is a significant change and will primarily affect SMEs and individuals, in particular those importing small quantities of goods subject to CBAM. The Commission proposes to introduce a new *de minimis* exemption threshold of 50 tonnes of imported goods per calendar year. According to the Commission's calculations, this will exempt from the CBAM scheme around 90 percent of operators whose carbon burden represents only 1 percent of the total. Roughly 99 percent of imported emissions would thus remain within the scope of CBAM, falling on the remaining 10 percent of reporting entities.

Other steps proposed within the Omnibus packages is to simplify the authorisation of declarants, the calculation of emissions, and the management of CBAM financial liability. Measures will also be introduced to make CBAM more effective, by strengthening anti-abuse provisions and developing a joint anti-circumvention strategy together with national authorities. In the future, the Commission will also investigate the possibility of extending CBAM to further sectors.

If the Omnibus packages are approved and implemented, we expect the legislative simplifications to take effect from the CBAM definitive period, i.e., 1 January 2026. If you are interested in further information on these changes, please do not hesitate to contact us.

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European Union responds to US tariffs with retaliation

Last month, the US administration led by President Donald Trump imposed 25 percent tariffs on steel and aluminium imports from Europe. In response, the European Commission is imposing retaliatory tariffs on a wide range of US goods.



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On 12 March, the 25 percent tariffs on aluminium and steel imports decided by US President Donald Trump entered into force. The European Union decided to respond by imposing retaliatory tariffs on US industrial and agricultural products. These measures target approximately USD 28 billion (CZK 650 billion) worth of US goods and were to enter into force on 1 April, but the date has now been pushed back to 13 April.

The European Union is trying to target its measures at goods originating in the Republican states of the US. In addition to metals, US textiles, household appliances, and various agricultural products such as poultry, beef and vegetables will also be affected, as will motorcycles, bourbon, and even the popular peanut butter.

European Commission President Ursula von der Leyen emphasised that the EU remains open to negotiations and expressed regret over the imposition of tariffs. She said the tariffs will negatively affect jobs and raise consumer prices on both sides of the Atlantic. The EU is trying to respond in a way that protects consumers and businesses but at the same time does not escalate the situation – the retaliatory tariffs are equivalent in value to those imposed by the United States.

The EU's move is part of a broader strategy to protect its economic interests at a time of strained transatlantic relations. The European steel industry is bracing itself for significant losses as the US is the second largest export market for European steel producers. Compensation in the form of exports to other markets will be hard to find. In any case, the EU is looking into various alternatives: for example, Brazil or Argentina are being considered for imports of certain agricultural products.

Unlike the EU, the UK, being no longer part of the Union, has chosen not to introduce its own retaliatory measures. The UK government described Washington's decision as disappointing but rather than responding by imposing tariffs, they chose a pragmatic approach: UK government officials are seeking to negotiate a comprehensive agreement with the US that would remove tariffs and promote the interests of UK businesses.

European Commissioner for Trade Maroš Šefčovič is communicating with the US administration to avert the tariffs, however an agreement that would benefit the economies on both sides is not in sight.

In response to the announcement of retaliatory tariffs, the US is threatening the EU with a 200 percent import

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tariff on wine and spirits, which is why the original effective date of the EU retaliatory tariffs has been pushed back to 13 April to allow for more time to discuss the situation with the US. However, the United States have indicated that they refuse any discussion, as they have also announced a 25 percent tariff on imports of all cars manufactured outside the US at the end of March.

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Introduction of digital systems for EU travel delayed

The European Union is working on the introduction of two new digital systems to track and record the travel of foreigners into the Schengen area: the Entry/Exit System (EES) and the European Travel Information and Authorisation System (ETIAS). These systems are intended to increase the security and efficiency of border controls.



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The EES system will record information on the entry and exit of third-country citizens to and from Schengen countries, replacing the current stamping of passports. The ETIAS system will require travellers from third countries with visa-free travel to obtain an electronic permit before travelling. Together, these systems are intended to simplify border processes and provide a better overview of the movement of people in the Schengen area.

Under the original plan, EES was to be launched in 2022 and ETIAS in 2023. However, due to technical and administrative challenges, the launch of both systems has been repeatedly delayed. The latest information suggests that EES should be operational in 2025, while ETIAS will not be operational until 2027.

The main reasons cited for the delay are the complexity of integrating the new systems with the existing national databases of the member states, the need for thorough testing, and the safeguarding of cyber security. The COVID-19 pandemic and the geopolitical events of recent years have brought further logistical and financial complications.

Despite the delays, the EU's aim remains to strengthen its security and streamline border management, which should benefit both travellers and the member states. However, it cannot be ruled out that the current plan will not be met, and the launch of these systems will be delayed yet again.

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Subsidies

Another call under TRANSPORT 2030 programme

The new call under the TRANSPORT 2030 programme offers opportunities for the advancement of applied research, experimental development and innovation in the transport sector, focusing on sustainable, automated, and environmentally friendly transport.



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The Technology Agency of the Czech Republic has announced its third call under the TRANSPORT 2030 programme, which focuses on **supporting applied research and innovation in transport**. The call covers all modes of transport, including land, water, and air, and all types of transportation means and infrastructure. Projects must meet the specific objectives of the programme, such as sustainable, accessible and safe transport, automation and digitisation, and low-emission and green transport. **Large enterprises** can also apply for support.

Applications for support can be submitted **from 6 March to 30 April 2025**. The funds for allocation are CZK 600 million, with maximum aid of **CZK 40 million** per project. The maximum aid intensity for large enterprises is 25-65% of eligible expenses, depending on whether the project involves industrial research or experimental development. Support may be granted for personnel costs, subcontracting costs, other direct costs, and indirect costs. The project output must be one of the following: an industrial design or a utility model, a prototype, a working sample, a patent, software, a pilot plant, or a proven technology.

The project can be started in January 2026 and completed by December 2029 at the latest (the project can take 12-48 months).

If you are interested, we will be happy to help you with the preparation of your application.

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Case law

Transfer pricing when processing raw materials: new case law

Recent case law provides a new perspective on the method of setting transfer prices in situations where a taxpayer formally owns raw materials but all risks associated with the ownership are borne by another party. The judgment may have implications for situations where companies have raw materials at their disposal but the risks associated with it are borne by the customer who ordered the work – i.e. cases of contract manufacturing and similar models.



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Judgment No. 29 Af 56/2022-93 follows earlier decision No. 29 Af 91/2019-147, which concerned a Czech manufacturer in the electronics industry. The manufacturer carried out assembly according to its parent company's instructions, while the parent company provided the raw materials. Although as per the accounting records, the manufacturer acquired the raw material into their ownership, their role was limited to assembly, without adding value to the material or assuming the risks associated with its ownership.

The taxpayer therefore argued that the most appropriate profitability indicator would be ROVAC (return on value-added costs), which only considers value-added costs. However, the tax administrator insisted on the ROTC (return on total costs) indicator, which works with a mark-up on all costs, including the value of the material, because of its formal ownership by the manufacturer.

In the first decision, the court agreed with the taxpayer and held that a mere formal ownership of the raw material does not mean that the taxpayer bears the related risks. According to the court, the tax administration had not considered the actual functional and risk profile of the manufacturer, and the choice of the ROTC indicator had therefore been insufficiently reasoned.

The tax administrator subsequently reconsidered their approach and carried out an additional analysis, using a scoring system to allocate functions and risks between the manufacturer and the customer, based on a value chain analysis submitted in the previous proceedings. The system assigned weights to each function and risk according to its importance. The tax administrator then multiplied the ascertained value generation percentage by the originally determined mark-up to, in their view, better match the manufacturer's profile.

In the second judgment, the regional court sided with the tax administrator, confirming that this modified approach was correct, and agreeing that the application of the ROTC indicator was suitable in such cases, provided that the limited role of the manufacturer is considered.

The case will continue with a cassation complaint before the Supreme Administrative Court. We recommend following its further development, especially for companies in a similar situation.

We will present the latest transfer pricing news on 16 April 2025 at the Transfer Pricing Forum. Registration is available here: Transfer Pricing Forum 2025.

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Case law

Verification of signature of share transfer agreement by attorney

The Supreme Court (SC) dealt with the question of the validity of an agreement on the transfer of shares in a limited liability company where the signature of the transferee was verified by an attorney who at the same time signed the share transfer agreement on behalf of the transferor.



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The transferee, as a shareholder of the target company, subsequently sought to have the resolution of its general meeting declared null. The lower courts held that the transferee could not seek a declaration of nullity because they had not become a shareholder of the company in the first place – in the courts' opinion, the share transfer agreement was null because the transferee's signature had not been properly verified as the verifying attorney had not been impartial in this case.

The SC disagreed with the conclusions of the lower courts (Resolution 27 Cdo 3120/2023). It concluded that the requirement for the attorney's impartiality when verifying a signature cannot be inferred from the law or the Bar rules. At the same time, the SC disagreed that any breach of an attorney's duties in verifying a signature would automatically lead to the absence of such a verification; such a conclusion would constitute an unreasonable infringement on the legal certainty of all those who rely on attorneys verifying their signatures. Thus, it was not relevant that the attorney who verified one party's signature at the same time also represented the other party.

The SC further addressed the question whether the signatures in the share transfer agreement not having been verified could cause the agreement to be absolutely null and void. According to the SC, the meaning and purpose of the requirement to have signatures in a transfer agreement verified is to ensure a higher degree of legal certainty for both the company and the shareholders as to what share is being transferred and who the transferee is. The SC reiterated that in the case of a share transfer agreement, this protection is already ensured by the regulation of the effectiveness of the agreement vis-à-vis the target company: the transferee does not become its shareholder until the agreement is delivered to the company. Therefore, even the absence of a verification of a signature in a share transfer agreement is not a reason for its absolute nullity.

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Case law

SAC: tax deductibility of advertising and promotion costs

Companies must be able to prove that their advertising and promotion costs were actually incurred in connection with generating, securing and maintaining taxable income. This basic rule for the tax deductibility of costs has yet again been confirmed by the Supreme Administrative Court in a case where a company was not the ultimate recipient of the advertising services.



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Advertising and promotion are crucial for companies to remain competitive. With their importance comes the need for the correct tax treatment of their cost. The Income Tax Act does not contain any special provisions governing advertising and promotion costs. It is therefore necessary to follow the basic rule on the general tax deductibility of costs.

The Supreme Administrative Court (SAC) considered case No. 9 Afs 195/2024 - 36 where the heart of the dispute was proving the tax deductibility of an advertisement that a company had commissioned. The company subsequently sold the advertisement to another entity, and the related revenue was not disputed. The tax authorities, however, focused on whether the company had indeed received the advertising services from the supplier, and whether the related costs were tax deductible.

The tax administrator challenged the receipt of the services based on the following facts: the supply was supposedly provided by a supplier who did not hold marketing rights to provide the services and was thus not authorised to conclude advertising contracts on their own behalf, and the subject matter of the contract was vague. The tax administrator therefore demanded the company prove that they had actually received the advertising services and in what scope. The company, however, produced documentation that had apparently only been prepared *ex post* for the purposes of the tax inspection, which further increased the tax authority's suspicions. In fact, the company only proved a small part of the advertising services – but even these did not correspond to the already vague subject of the contract, let alone to the total paid amount of CZK 6.7 million.

The Supreme Administrative Court agreed with the tax administrator that the company had not proven the receipt of the advertising services and related costs in the tax inspection. Moreover, the SAC pointed out that property relations existed between the company and the places where the advertising was to take place, which further increased doubts as to whether it was at all necessary to incur any advertising and promotion costs. According to the court, the evidence showed that the true purpose of the contracts was to support the sports club rather than purchase advertising services.

The judgment underlines once again the importance of a thorough documentation of advertising and promotion costs. It is advisable to already gather it when receiving the services, as it is ideal to have all necessary evidence at hand and ready in the event of an inspection by tax authorities.

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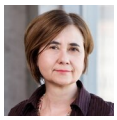
It is not sufficient to submit invoices alone but it is important to have other supporting documents such as photographs, email correspondence, contracts or other evidence to support that advertising and promotional services were actually provided. At the same time, individual pieces of evidence must not contradict each other.

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In brief

News in Brief, April 2025

Last month's tax and legal news in one or two sentences.



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Domestic Briefs

- The Act amending Act No. 247/2014 Coll., on the provision of childcare services in children's groups and amending related acts, was published in the Collection of Laws on 27 March 2025 under No. 84/2025. The act, among other things, regulates the taxation of employee stock and option plans and as regards this regulation, entered into effect on 1 April 2025. More detailed information on the issue is available here.

- The following regulations were also published in the Collection of Laws in March:
  - Decree No. 66/2025 amending Decree No. 117/2024 Coll., on establishing electronic communication for the fulfilment of employers' information obligations when employing foreigners (effective 1 April 2025).
  - Communication of the Ministry of Foreign Affairs (No. 67/2025) replacing Communication No. 20/2024 Coll., on the facts concerning the implementation of the Agreement between the Czech Republic and Canada concerning the facilitation of temporary work stays of young people
  - Amendment to Act, on Legal Profession No. 73/2025, effective 1 April 2025
  - Decree No. 76/2025 amending Decree No. 525/2020 Coll., on submissions via prescribed forms relating to income tax (effective 1 May 2025)
  - Act No. 79/2025 amending Act No. 203/2006 Coll., on certain types of support for culture and on amendments to certain related acts (effective 1 July 2025)
  - Government Regulation No. 86/2025, on the details of registration for special long-term residence (effective 31 March 2025)

- The Ministry of Finance has initiated a comment procedure on the amendment to the Act on International Cooperation in the Field of Taxation, which will implement into Czech law the rules for the exchange of information for minimum tax purposes within the EU (DAC 9), or even outside the EU if the relevant interstate agreements have been concluded. The amendment includes a uniform format for the information return, which is based on the OECD format.

- The Ministry of Finance has initiated a comment procedure on the decree setting the method of calculating the floor area for the purposes of value added tax.

- Decision on a waiver of tax accessories due to an extraordinary event (flood) was published in Financial Bulletin No. 6.

- The Ministry of Industry and Trade held this year's first meeting of the Artificial Intelligence Committee. The main topics were the implementation of the EU Artificial Intelligence Act into Czech law, the implementation of the National Strategy for AI, and the support for research and innovation in this field. A representative of the Ministry of Health said here that AI will be incorporated into the updated National eHealth Strategy 2025-2030. Support for start-ups in AI was presented by a representative of CzechInvest

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who pointed out the possibility of funding through the Technology Incubation Programme.

- In March, the Ministry of Health and the Ministry of Labour and Social Affairs introduced the linking of social and health data. This new system initiated back in 2022 is now fully operational and legislated. Linking data between the two ministries allows to provide better care to those who need combined health and social support. The project also simplifies administrative processes.

International Briefs

- The initiatives to reduce bureaucracy and cut red tape within the EU also cover taxes. The first step should be the revision of the Directive on Administrative Cooperation (DAC) as regards reportable cross-border arrangements (DAC 6), and the Anti-Tax Avoidance Directive (ATAD). For more information, see the Council conclusions.

- The EU Council has reached political agreement on the rules governing the framework for the exchange of information on top-up tax information returns and agreed to introduce a single format for this information return (DAC 9). Following final approval by the Council, the amendment to the directive on administrative cooperation will be published in the Official Journal of the EU. Member states should implement the amendment by 31 December 2025.

- The VAT in the Digital Age (ViDA) legislative package was published in the Official Journal of the EU (OJEU) on 25 March 2025, following adoption by the EU Council on 11 March 2025. The directive, regulation and implementing regulation will enter into force on the 20th day following their publication in the OJEU, i.e., 14 April 2025.

- The KPMG EU Tax Centre regularly monitors changes in direct taxes in the EU and internationally. For a complete overview of the latest developments, please see the 18 March 2025 issue.

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