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Income Tax

New rules of low capitalization

According to the revised Income Tax Act, effective as of 01 April 2009, new rules of so-called „thin capitalization“ apply, which limit the tax deductibility of financial costs, such as credit and loan interests and some associated costs. The new rules can be summarized as follows:

- tax deductible financial costs will be only costs of credits and loans from related parties, where the proportion between the amount of credits and loans and equity will not exceed the proportion 4:1 (6:1 in case of banks and insurance companies);
- new thin capitalization rules will no longer apply to the financial credits and loans costs between non-related parties, as far as these credits and loans will be secured by related party;
- thin capitalization rules will also apply to so-called „back-to-back“ credits and loans, i.e. credits and loans between related parties provided through a non-related intermediary, e.g. bank;
- the tax non-deductibility of financial costs of subordinated credits and loans will be repealed.

These rules can be applied for the tax period beginning in 2008, i.e. if you have already filed a tax return for year 2008, these new rules can be applied by way of additional tax return.

VAT

Full VAT deduction for passenger cars

According to the amendment of Value Added Tax Act, entrepreneurs can fully claim the entitlement to a VAT deduction for purchased cars used for business purposes only. If the car is used for both business as well as for private purposes, the entitlement to a VAT deduction arises for the entrepreneur to the same extent to which the car will be used for business purposes. In the case that the entrepreneur claims the VAT deduction in full, and then the car will be used for private purposes, the obligation to pay VAT arises to the extent to which the car is used for private purposes.

It is possible to claim the entitlement to a VAT deduction for cars purchased after 1 April 2009 only, and the first time it can be claimed in the VAT tax return for April 2009 (2nd quarter 2009).



An announcement of the Ministry of Finance of the Czech Republic also contains procedures for cases of passenger cars purchased before 1 April 2009, cases of second-hand cars in special scheme as well as cases of financial lease of passenger cars. The announcement also contains solutions to some practical issues, which are as follows:

- For application of VAT, the date of car registration is not relevant. For entitlement to VAT deduction the date of taxable supply is decisive, i.e. if this occurred on 1 April 2009 at earliest, entitlement to VAT deduction may be claimed. In the case of purchase agreement according to Commercial Code, the decisive day is date of delivery under the terms of the contract, which may differ from the actual date of receipt of a passenger car.
- In the case of cars that were purchased after 1 April 2009 and the entitlement to VAT deductions was claimed, the sale will be considered for supply subject to VAT. However, if the purchase of car complies with the VAT Act effective until 31 March 2009, i.e. the entitlement to VAT deduction was not claimed, the sale of car will be exempt from tax according to VAT Act as amended prior to the amendment.
- According to the amendment, the rebuilding of car resulting in a passenger car is not considered as the supply of goods subject to VAT. This rebuilding should be seen as a service supply, where the entitlement to VAT deduction arises by fulfillment of other statutory conditions.

Decrease of VAT rate

With regard to the economic crisis and the effort to maintain the employment rate, the Czech government reflected the agreement within the EU. Reclassification of some services with high portion of human labour into reduced VAT rate (9%) is taken into account. There will be services such as restaurant services (excluding the supply of alcoholic drinks and tobacco products), supply of books and any media, as well as hairdressing, barber services, repairs of bicycles, clothing and soft furnishings.

Aftercare services should stay in reduced VAT rate only until 2010. However, the agreement of EU Finance Ministers continues to retain them there. For renovations and repairs of private dwellings and houses, the submission to reduced VAT rate will be permanent. The proposed agreement still requires formal approval at the Spring European Council and issue of the Appendix of VAT Directive, and it needs to be discussed by the particular parliaments of the EU Member States.

Accounting

Changes and news in the rules of accounting for entrepreneurs

The amendment of the Decree for Entrepreneurs keeping accounts in double-entry accounting system, effective as of 1 January 2009, introduced the following major changes and news:

- The amendment introduces an accounting procedure for company conversions by cross-border mergers, where one of the parties is a foreign company. Through the conversion, this can become an extinguished or successor company.
- For the first time, in the accounting period commencing on 1 January 2010, accounting units may depreciate their assets by the component depreciation method. This method allows the separate depreciating of parts of assets (components), if the useable life of the component is significantly different from the usable life of the entire property and its value is significant in proportion to the value of the entire property. Accounting units may also depreciate the assets put to use before 1 January 2009 by the components method, namely of the residual value of the component calculated by division of total valuation and accumulated depreciation to the components.



- Already in the accounting period beginning on 1 January 2009 or later, accounting units may introduce the new term of „residual value“ by updating their depreciation plans. Estimated residual value is the amount that accounting unit estimates to get at the time of the anticipated disposals of assets, i.e. at the time of sale, after deducting the costs related to disposal. In practice this means that by drawing depreciation plans, an accounting unit does not need to anticipate that the purchase price of the assets must be depreciated to zero over their expected useful life..

The obligation to approve an auditor by the Shareholder's Meeting

According to the new Act on Auditors, effective as of 14 April 2009, the designation of the auditor responsible for statutory audit of financial statements must be approved by the highest authority of the company. If a given accounting unit has not appointed such a highest authority, or this authority fails to designate an auditor, then the supervisory authority of accounting unit should designate instead. The statutory body is entitled to conclude a contract for the statutory audit only with the auditor who has been designated in this way. This obligation shall not apply to contracts for the statutory audit of financial statements concluded before 14 April 2009 involving balance sheet dates up to 31 December 2010.



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