

Tax & Business News

Tax, accounting, advisory and assurance newsletter

October|2009

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Dear Business Partners,

Welcome to the October edition of Tax & Business News in which we bring you updates and news from the area of tax, accounting and financial advisory.

“Clarification” and “Simplification” are two words that generally herald good news for businesses. In this edition of Tax & Business News we provide details of a number of “clarifications” provided by the Ministry of Finance on certain tax issues and highlight a significant “simplification” in the guise of IFRS for SMEs.

Any step that makes life easier or more certain for businesses is encouraging and I hope you find these particular articles helpful.

Yours sincerely,

Peter Skelhorn

Partner, Tax and Legal Services

Scrap fees explored

Based on an Act approved by the Czech Parliament, the Government can now launch subsidies – so-called “scrap fees” – for old cars being taken out of service. However, it can also happen that the scrap fees will not be implemented at all.

If the Czech Government decides to launch the scrap fees, the following individuals can request a subsidy

- an individual who is neither an entrepreneur or a VAT payer,
- an individual who is liquidating a passenger car older than 10 years and
- an individual who owns the car subject to liquidation for at least 2 years

Various professions, e.g., an independent farmer, doctor, interpreter, lawyer or journalist are also considered to be entrepreneurs for the purposes of this Act.

The qualifying individual is subsequently entitled for a subsidy amounting to up to CZK 30,000 if a request for registration of a new car is submitted within the determined deadline. At the same time, the new car which is being registered has to fulfil the following conditions:

- Its carbon dioxide emissions must not be higher than 160g CO₂ per kilometre
- Its emissions meet the norms of EURO 4 and higher
- Its purchase price does not exceed CZK 500,000



An individual who is going to register a new passenger car powered by electricity, hybrid drive or compressed natural gas is entitled to receive a subsidy amounting to CZK 60,000. The purchase price of such a car is limited to CZK 700,000.

Do you need advice regarding subsidies for cars being put out of service (scrap fees)? Do not hesitate to contact:

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Premature delight over discarding mileage books

Using a lump sum approach for income tax purposes for cars makes keeping mileage books unnecessary. However, such a rule does not apply to VAT. Entrepreneurs - VAT payers - are still obliged to prove the use of purchased fuel, subject to the input VAT claim, for their business activities. And, one of the ways to prove this is with a mileage book.

If you are interested in having more information related to the VAT deduction for cars, please, do not hesitate to contact:

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Favourable adjustment for taxation of members of statutory bodies

The amendment to the Income Taxes Act¹ will allow members of statutory bodies and Czech tax non-residents, among others, to apply final withholding tax already paid on remuneration as a tax prepayment. This tax can be applied by filing a Czech personal income tax return, which, together with an application for tax credit, will result in decreasing the Czech tax liability. This approach can be used starting in 2009.

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¹Amendment of Income Taxes Act No. 216/2009

Change in taxation of professional development of employees

The amendment to the Income Taxes Act ("ITA") effective as of 20 July 2009 brought changes to the taxation of employment benefits in the form of the professional development of employees. The below-mentioned provisions can now be applied for the taxation period commencing in 2009.

Tax deductibility of employer's costs

It is no longer necessary to determine whether professional development of an employee (e.g., attendance at training) is considered to be the performance of work (deepening of qualification) or an obstacle to work performance (increase of qualification) in order to recognize the employer's costs as tax deductible. However, it is still necessary, that in order for the costs of professional development of employees to be tax deductible, such development must be related to the business activity of the employer².

Tax exemption of employee's income

According to the new wording of the law³, non-monetary benefits provided by the employer in the form of professional development of the employees (i.e., both the deepening and increase of qualification) are tax exempt for the employee. Such benefits are also not subject to mandatory insurance payments either.

However, if the employee attending training receives, e.g., a monetary contribution or such training is reimbursed to him, the amount will represent taxable income and be subject to mandatory insurance payments. In order to exempt the income from taxation, it is necessary for the training to be either organized by the employer or paid directly to an external provider. The amendment further specifies that other monetary benefits provided to the employee in respect of professional development also cannot be tax exempt.

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²The relevant provision of the ITA, also refers, e.g., to Sec. 230 of the Labour Code, which deals with the deepening of qualification. However, when amending Sec. 24 (2) (j) (3) of the ITA, the legislator intentionally excluded the part about the performance of work (i.e., deepening of qualification). Due to this fact, it can be concluded that the costs of increasing qualification (regardless of the fact of whether they are provided in a monetary or non-monetary form) can now also be considered tax deductible

³Sec. 6 (9) (a) of the ITA stipulating the tax treatment of the benefit of professional development of the employee was also subject to changes



The Ministry of Finance expressed its opinion to tax uncertainties

The Ministry of Finance, at the coordination committee with the Chamber of the Tax Advisors, expressed its opinion to a number of questions.

Super-accelerated depreciation and super-accelerated leasing

- **Day of acquisition is the day of putting into use**

The Income Tax Act allows a new method of the depreciation for the fixed assets acquired in the period between 1 January 2009 and 30 June 2010. Because the date of the acquisition is not defined in the tax or accounting legislation, the Ministry confirmed that the day of putting into use is understood as the acquisition date for tax and accounting purposes. The super-accelerated depreciation can be applied to new tangible fixed assets in the first and second depreciation group, which were put into use in the above-mentioned period.

- **Technical appreciation does not increase acquisition value**

The technical appreciation of tangible fixed assets, which are depreciated by the super-accelerated method, does not increase the acquisition value of the asset. The Ministry agreed that this technical appreciation represents a separate "other asset" which is depreciated independently including the possibility to increase the depreciation charge in the first year of depreciation if the condition of "first owner" as defined in the Income Tax Act is met. If the assets are technically appreciated repeatedly, the depreciation rate for the increased purchase price of the fixed asset should be used.

In case of the change of acquisition price of fixed assets depreciated by the super-accelerated method due to a reason other than technical appreciation, the standard procedure will apply. That means that it is necessary to recalculate the depreciation for the remaining part of the depreciation period starting for the month following when the change of the acquisition price occurs.

- **The same rules for the investment incentives grantees**

In connection with the new method of depreciation, the Ministry confirmed that this method is equivalent to the other two methods of depreciation. This means that use of the new super-accelerated depreciation method is not mandatory for investment incentives grantees and these taxpayers may apply a linear or accelerated depreciation methodology on newly purchased assets. Similarly, these taxpayers are not obliged to apply the new super-accelerated leasing only for new contracts on the financial lease.

- **Creation of reserves for repairs of tangible assets is possible**

Based on the Act on Reserves, it is possible to create reserves for repairs of tangible assets whose depreciation period is more than five years. In connection with the super-accelerated depreciation it was unclear if the reserves might be created for repairs of tangible assets in the 2nd depreciation group where the super-accelerated depreciation for 24 months may apply. The Ministry confirmed that the creation of reserves in the 2nd depreciation group is still possible even if the super-accelerated depreciation is applied for a particular asset.

Tax treatment of the settlement agreement from the creditor's view

Based on our practical experience, PwC asked the Ministry to give its opinion on the tax treatment of the settlement agreements on the creditor's side as the tax treatment on the debtor's had already been solved in past. The Ministry confirmed that the new obligation arising from the settlement agreement is subject to the same tax treatment as the original obligation. The tax treatment on the side of creditor has not become clear yet.

The Ministry confirmed our suggested solution that the economic result related to the termination of the original receivable and arising with the new receivable shall be subject to tax in the taxable period in which the settlement agreement becomes effective. The taxpayer is not obligated to file an additional tax return for the taxable period when the original receivable arose. The new receivable arising from the settlement agreement will follow the tax treatment of the original receivable.

On the other hand, the Ministry is of the view that, due to the fact that the settlement agreement creates new rights and obligations from the legal perspective, the originally-created bad-debt provisions should be released and the taxpayer may create new ones for the new receivable resulting from the settlement agreement, dependent on the due date stated in the agreement.



The term "from the title of loans and credits" means principal

The Act on Reserves states that the tax provisions to receivables that arise from loans and credits may not be created. The term "from the title of loans and credits" has not yet been clearly defined and thus, it is not obvious what receivables related to loans and credits are eligible for creation of tax-effective pensions.

The Ministry confirmed that this term relates to the principal of the loan or the credit only. This term does not include the receivables from the interest which represents separate receivable which was booked into the taxable revenues. The same approach applies on the other incomes related to the provided loan or credit (e.g., bank fees or commissions) to which the tax provisions may be created. The receivables from the sanctions (contractual penalties, interest on late payments) are the only exception for which the creation of tax provisions is explicitly excluded by the law.

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Important case-law of the Supreme Administrative Court

Invoicing executives taxed as employees

In one of its July decisions, the Supreme Administrative Court dealt with the issue of so-called "invoicing executives". In this case, executives of a limited liability company invoiced the company for the extra work done as individual entrepreneurs. The invoiced work was the same as the scope of the business of the company.

The Court agreed with the tax administrator who classified the invoiced amounts as the income generated from the dependent activity of the executives for the company. Thus, the company was obliged to withhold personal income tax advances from these remunerations as they were the employment income. The Court considered this situation from the personal income tax perspective and it did not rule on the validity of the agreement between the executive and the company. Nonetheless, it is questionable whether the above agreement is valid and whether the company's costs related to the executive's remuneration in the above case is tax deductible for the company.

Non-taxable reserve is always non tax-effective

In another decision, the Court considered the creation and release of reserves for reinstatement and reclamation of land damaged by mining. One of the conditions for creation of such reserve is the consent of the Mining Office. In this case, absence of such consent caused that the creation of the reserve was non-tax deductible, even though the taxpayer applied the creation of the reserve as tax-effective cost. The Court pointed out that the tax non-deductibility of the reserve is related to the taxable period in which the reserve was created. Only

in this tax period the tax administrator may increase the taxpayer's tax base by such improperly created reserve. If the tax administrator did not make such increase, he is not allowed to consider the reserve upon its release as a tax-effective.

If the foreclosure period for the assessment of tax for the period of reserve creation had already expired when the tax administrator commenced the tax audit, the tax administrator is not authorized to increase the tax base by the amount of unauthorized reserves for the audited period or the period when the non-deductible reserve was released to revenues. In other words, the tax non-effective item is always non-effective and the tax non-deductible reserve cannot be considered as tax deductible only because the unauthorized creation of the reserve cannot be re-considered by the tax administrator due to the preclusion restriction. The sole fact that the non-taxable reserve was incorrectly considered as taxable cannot re-establish its status as a taxable reserve.

Are you going to file corrective tax return? Take care about the last month of the statutory limitation period

The Court has also dealt with the issue of filing a corrective tax return in the last month of a three-year statutory limit for the tax assessment. According to Czech tax law, a taxpayer must file a corrective tax return by the end of the month following the month when the taxpayer discovered the reasons for its filing. The tax office must assess the additional tax based on this corrective tax return within the same time limit. At the same time, the tax office must also consider its power to assess the tax only within the statutory limitation period.

In the given case, the taxpayer filed a corrective income tax return for the tax period of 2004. The statutory limit for this taxable period expired on 31 December 2007. The taxpayer filed the additional tax return in December 2007 and mentioned

December 2007 as the month when the reasons for submitting the corrective tax return were discovered.

There was conflict of several statutory time limits and the Court considered the obligation of the tax administrator to assess tax under these particular consequences and the possibility not to assess the tax. The Court stated due to the fact that the taxpayer filed the additional tax return in the last month of the time limit, the taxpayer himself caused uncertainty whether the tax administrator assesses the tax based on the corrective tax return or not. Since the taxpayer found the facts for filing the corrective tax return in December 2007, the statutory limitation for the tax assessment lasted until the end of January 2008. However, the statutory limitation for the tax assessment was already passed in January 2008 and, therefore, the "new" tax reported in the corrective tax return could not be assessed anymore.

For this reason, the Court agreed with the tax administrator's conclusion that in this case it was not possible to newly assess the tax duty based on the corrective tax return. The tax administrator is not obliged to assess tax after the statutory limit has expired. From our point of view, this conclusion is controversial because the tax assessment depends on the arbitrariness of the tax administrator (i.e., whether or not the tax administrator manages to assess the tax by the end of statutory period). On the other hand, taxpayers should be aware of the risk connected with filing a corrective tax return during the last month of the statutory limitation period and stating the last month of this period as the moment when they discovered the reasons for filing the corrective tax return.

If you are interested in information with respect to these issues, please contact:

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Who can remove dividers from their cars?

Entrepreneurs are no longer required to have uncomfortable dividers installed in their cars for VAT deduction purposes

In accordance with EU regulation, the Ministry of Transport has cancelled the obligation for light commercial vehicles to have the luggage space divided from car seat space by a fixed divider⁴.

But, what is to be done with existing dividers? Since April, it is possible to backward remodel N1s to M1s in case of almost all cars with the additionally installed dividers without any VAT consequence. Nevertheless, the conversion of categories from N1 to M1 can be administratively difficult.

In most cases it will not be possible to remove the divider from the old cars which were

manufactured and approved including the divider.

Therefore, in each case it must be considered if the car owner can simply remove the divider or (if desired) change the technical category of the car.

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⁴The amendment to the Regulation on the approval of the technical capability and technical conditions for road traffic No. 283/2009 Collection of Laws, effective as of 15 September 2009

Czech Government to support biofuel

As of 1 October 2009, the Amendment to the Excise Duty Act⁵ will entitle E85 biofuel producers to deduct the excise duty paid on the share of ethanol present in this biofuel.

The fuel can be used as alternative, lead-free petrol, though some special engine adjustments are required.

Thanks to the tax allowances, drivers can now save approximately CZK 12 from each litre of the fuel.

For more information related to excise duties, please do not hesitate to contact:

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⁵No. 292/2009, Collection of Laws

Looking for better days

Simplified IFRS for small- and medium-sized entities

Companies using financing through bank loans are often asked by the financing bank to report on their financial results under IFRS (International Financial Reporting Standards) on regular basis. Finance teams of such companies learn quickly that it takes a lot of effort before an auditor signs the financial statements prepared in accordance with IFRS.

Companies facing such a challenge may look forward to relief that may ease their situations.

The International Accounting Standards Board (IASB) published a new standard entitled "IFRS for small- and medium-sized entities" (IFRS for SMEs) in July. The IFRS for SMEs is tailored to companies with securities not traded on public capital markets and that do not provide financial services to the general public. IFRS for SMEs provides a simplified reporting framework summarised on 230 pages. In comparison with the full IFRS, IFRS for SMEs simplifies principles for the recognition and measurement of assets, liabilities, expenses and income. The number of disclosure requirements has been reduced. PwC estimates the reduction in the volume of disclosure requirements is up to 80% compared to the full IFRS.

IASB declared that it will update IFRS for SMEs only once every three years. It represents significant relief using the new reporting framework compared to the current dynamic development in full IFRS.

What areas were simplified?

From the practical point of view, goodwill amortisation represents a significant

simplification. As a result, entities reporting under IFRS for SMEs are not required to test goodwill for impairment. Such goodwill impairment tests have to be done every year under full IFRS. A further simplification was made to the accounting for financial instruments and employee benefits. These and other changes should lead to simplification of reporting under the internationally recognised accounting framework and the reduction of related costs.

Reactions to the new IFRS for SMEs are not uniform at the moment

Publication of IFRS for SMEs was welcomed in the United Kingdom, while in the rest of Europe the reactions were calm. Europe is now waiting for the response from the European Union; however, some people had higher expectations in respect of simplification in accounting guidance. There is also another problem to be resolved: some incompatibility between IFRS for SMEs and general rules for financial reporting in Europe set in the 4th and 7th EU Directives. In general, the rest of the world welcomed the new standard more positively than Europe.

Can we expect fast use of IFRS for SMEs in the Czech Republic?

IFRS for SMEs are expected to be used voluntarily, for example, for the purposes of financial reporting required by financing banks, as mentioned in the introduction of this article. However, banks have to enable their clients to use simplified guidance in comparison with full IFRS. We recommend agreeing the requirements with the banks

in writing in order to avoid any potential risk that loan agreement conditions may not be met.

We hope that the Ministry of Finance will in the foreseeable future allow use of IFRS for SMEs for the purposes of preparation of consolidated financial statements. There are a number of good reasons for such future developments. For example, IASB managed to create a cohesive reporting framework, even on a limited number of pages. It is likely that many companies would prefer using IFRS for SMEs than using the Czech accounting legislation.

We expect that the simplified international reporting framework will be widespread in Europe. Similarly, Czech companies are likely to become glad users of the new reporting framework in the future.



If you are looking for more information about the IFRS for small- and medium-sized entities, do not hesitate to contact:

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... ECJ corner

RCI Europe – Place of supply of services relating to timeshare properties

The European Court of Justice (ECJ) has passed a judgment concerning the place of supply for services relating to the exchange of timeshare usage rights in holiday accommodations. The dispute essentially concerned whether enrolment fees, subscription fees and/or exchange fees should be taxed in the place where the VAT payer, the operator of the scheme, is established or in the place where the timeshare property is situated.

ECJ ruled that all fees paid by the timeshare exchange scheme members are taxable where the property subject to this scheme is situated.

The decision of the ECJ could have significant implications for all EU operators of such timeshare exchange schemes. They can retroactively make claims for VAT incorrectly paid in the place of their establishment. On the other hand, they may be required to register and account for VAT in each Member State where the property subject to the timeshare exchange scheme is located. Therefore, we recommend that you acquaint yourself with the respective legislation of all related EU Member States.

Should you have any question regarding the above issue, please do not hesitate to contact:

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Revolutionary change in retail sales

The Chamber of Deputies will discuss an Act on Significant Market Power again



This new act imposes completely new obligations on purchasers and failure to fulfil these obligations can result in significant fines.

Purchasers with net turnover exceeding CZK 5 billion per year are considered to be purchasers with significant market power. Originally, the act was supposed to affect all types of goods delivered for the purpose of resale, the changes implemented by the Senate however restricted the scope of this act only to agricultural and food products. The act will thus especially affect retail chains.

Retail chains and other purchasers with significant market power will, for example, have to prepare business terms and conditions with specific prerequisites (conditions of sale, price conditions, payment conditions, etc.) and present them to all suppliers who will ask for their provision. The terms for payment by the purchaser must not exceed thirty days from the date of supply of the goods and default interest must be determined in cases where this time-limit is not observed. The act further implements restrictions on price determination and prohibits a number of current business practices.

When determining the new business terms and conditions we recommend thoroughly taking into account not only their legal aspects but also the impacts of the changes on your tax obligation.

If the act comes into force and is published in the collection of laws, big purchasers will have about three months to adapt to the new act and not risk fines.

I If you are interested in how to set up the processes in the correct legal manner? Ask:

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EU VAT Package yet to be approved

As you will probably be aware, the Value Added Tax Act is due to be amended significantly as of 1 January 2010.

The amendment, commonly referred to as the "EU VAT Package," implements changes in EU legislation with respect to VAT. The amendment has already been sent to the Czech Parliament and should have its first reading shortly.

The amendment to the Value Added Tax Act:

- changes rules for the determination of place of supply for certain services
- introduces additional reporting obligations in the form of EC Sales Lists for services with the place of supply outside of the Czech Republic
- changes the procedures for refunds of Czech VAT paid in other EU Member States

I If you are interested in finding out how the EU VAT Package will affect your business, please do not hesitate to ask:

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According to the Czech statistical office, manufacturing production in the month of July has decreased by 18.2% in a year-on-year comparison

Various measures aimed at supporting the national economy have been adopted in our trade partner countries, for example, in Germany. These measures have also temporarily decreased the impact of the crisis for the Czech industrial sector. But the battle is not over yet. Even when we speak about economic recovery, Czech companies will still struggle with insufficient cash at hand. This situation will prevail for some time. Generally, it will be difficult for Czech firms to find the financial resources necessary for new investments.

We suppose that Czech companies have already hit the presumed bottom. During the first half of the year, business people emptied their warehouses and the markets have already absorbed these goods. Therefore, we expect the statistics relating to manufacturing industry to show positive numbers again or at least that September or October will stay at the levels of previous months. It is still early to be optimistic, while the market's revitalisation might be only brief. We expect more positive news to arrive in the spring of next year.

Petr Smutný, Partner, Restructuring and Revitalisation Services

According to the Czech statistical office, the average gross salary rose by 2.8% in the second quarter of this year in a year-on-year comparison

Czech companies plan to increase their employees' salaries by 1.7% according to the research conducted by PricewaterhouseCoopers, which was monitoring the impact of the financial crisis on employee salary and benefits. This marginal increase is due to the fact that one third of interviewed companies do not intend to raise salaries at all. Moreover, the highest anticipated salary increase this year is equal to last year's average. 90% of managers interviewed stated that their company will raise the salaries of those employees who will be promoted.

Branislav Hunčík, Director, Human Resource Services



Tax Up-date

What already happened in 2009 and what is expected in 2010?

When: 30 October 2009, from 9:00 to 12:00

Where: PwC, Kateřinská 40, Prague 2

The 2009 became a year of significant changes also from the tax and social security prospective. Some of these changes are already in force and some will become effective from the beginning of the next year. Therefore we consider useful to inform you about the most important changes that may have impact on your company. In this respect you can expect from us a general overview of all changes in terms of taxes and social security insurance that we consider the most practical as well as warnings of the possible effects that these changes may have on you.

Our presentation will cover:

- Corporate income tax - super-fast tax depreciation and leasing and their use in practice, flat rate for transport, news in international taxation
- Personal income tax and social security and health insurance - changes in international taxation, allowances in social security insurance
- Value-added tax - EU VAT Package from 1 January 2010 - did you set your system to the new rules?
- Administration of taxes - news in paying taxes and insurance, major law amendments and judicial decisions, the basic principles of the new Code of Tax Proceedings

The seminar will be conducted in [Czech language](#). Participation in the seminar is free of charge, however, due to the limited room capacity a [registration is necessary](#). You may register via e-mail: marketa.kroupova@cz.pwc.com or by telephone: **+420 251 152 549** no later than [25 October 2009](#).

Global Changes vs. Local Reality: How HR can deal with that?

When: 15 October 2009

Where: Pyramida Hotel, Prague

This professional conference will be conducted in [Czech language](#). Conference organized by Economia Publishing House and Blue Events. PricewaterhouseCoopers involved as a professional speaker.

You may register at: www.hrevent.cz

Paying Taxes in 2010

When: 24 November 2009, 3 – 6 p.m.

Where: PricewaterhouseCoopers, Kateřinská 40, 120 00 Prague

The official launch of the 4th Annual Report prepared by PricewaterhouseCoopers and the World Bank.

We will cover:

- What tax obligations Czech companies have to meet and what impact does it have on their business?
- Which countries made the most significant reforms of their tax systems and what is the overview of these changes?
- How does Czech tax system compare to the tax systems of our neighbouring countries?
- What is the administrative burden that Czech businesses have to carry?
- What areas should the Czech government focus on to improve the business environment for Czech companies?

We will answer these questions and bring you other interesting insights into the tax systems in 183 countries around the world.

More information can be obtained at www.pwc.cz/paytax.

You will receive the comprehensive overview of all seminars and events we prepared for you at www.pwc.cz/events.





Business Academy

by PRICEWATERHOUSECOOPERS 

www.pwc.cz/academy

The development of your employees and expansion of their knowledge and skills in the key areas of your business is a key element to help them deliver efficient and high-quality work and help you succeed. The economic crisis seems to have finally touched bottom and the marketplace may now be starting to slowly recover. When the market does return to full strength, have your people prepared for new challenges and opportunities that may arise.

PwC Business Academy is pleased to offer you the opportunity to take part in a new set of seminars and programmes designed around on our clients' interests and needs. Let us ensure for you the best quality development – come learn from our experts and share in their practical knowledge.

Please find below brief information about all the areas we cover in our programmes and use the individual links to access our website, on which you will find more details about each of them:

Finance & Accounting

9 October	The IFRS Framework and Foundations (in Czech)
from 19 October	ACCA Diploma in IFRS (in English)
3 November	Understanding Financial Instruments (in Czech)
13 November	IFRS Update and News (in Czech)
19 November	Hedge Accounting (in Czech)
e-learning	P2P IFRS - from principle to practice (in English)

Tax and Legal

13 – 14 October	Transfer Pricing (in Czech)
5 November	EU VAT Package (in Czech)
12 November	Personal Data Protection (in Czech)
25 – 26 November	Employment of EU citizens and foreigners (in Czech)

Internal Audit

4 – 5 November	Evaluating Internal Controls - COSO (in Czech)
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HR Management

8 – 9 October	HRM Workshop - Master Class (in English)
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Management & Business skills

27 November	Assertiveness (in Czech)
1 December	Emotional intelligence (in Czech)
7 – 8 December	Advanced Presentation skills (in English)



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