

Tax, Legal & Business News

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Tax, legal, accounting, advisory and assurance newsletter

November 2011

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Theme of the month

PwC Legal has entered the Czech market

New law firm PwC Legal, with offices in Prague and Brno, has entered the Czech market. It will offer its clients a full range of legal services ranging from day-to-day legal advice and compliance services to complex commercial transactions, dispute resolution and litigation in all major industries. In the Czech Republic, PwC Legal is starting with a team of more than 15 experienced lawyers headed by **Daniel Čekal** in Prague and **Jan Hladký** in Brno.

The key areas of expertise where PwC Legal will offer its services include mergers and acquisitions, restructuring, insolvency projects, real estate projects, e-business and IT, the public sector, EU funds advice, energy sector and advice for private clients.

The Czech office is part of the PwC Legal network that serves clients globally in more than 75 countries worldwide and is therefore ready to provide complex legal services wherever in the world.



“Our goal is to develop a high-quality transaction and project law firm that can successfully

compete with well-established international and high-ranking local law firms.”

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Tax

The Specialised Financial Office is here

Through an amendment to the VAT Act, the Specialised Financial Office will be created from 1 January 2012 and will be a new part of the existing structure of territorial financial authorities. Re-registration should start ex officio from January 2012. The Specialised Financial Office will be responsible for all taxes except real estate tax administration.

The entities that will newly be administered by the Specialised FO will be companies with turnover exceeding CZK 2 billion; banks, including branches of foreign banks; credit unions; insurance and reinsurance companies, including branches of foreign insurance and reinsurance companies; and companies which form a VAT group with the above entities. Crucial to the assessment of turnover is the tax return filed in 2011, i.e. turnover for 2010.

The creation of a new organisational structure of financial authorities which we reported in our last issue will likely be postponed from 2012 to 2013. It will be formed by the General Financial Directorate, the appellate Financial Directorate, 13 financial offices and the Specialised Financial Office.

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Tax

Amendment to the Transformation Act will bring many changes

In particular, greater flexibility regarding the determination of the effective date of transformation and expansion of opportunities for cross-border transformations within the EU are to be brought by an amendment to the Transformation Act, which is currently being discussed in Parliament. The amendment will also accelerate the process of disclosure of documents during transformation as companies will also be able to publish the documents by using their websites.

The proposal also eliminates transformation in case the accumulated losses of the successor company reach half of its capital. In this case, the effective date must not precede the date of registration of the transformation in the commercial register and the court must be presented with a report that the transformation will not cause the bankruptcy of the successor company. The accounting rules follow the change in the concept of transformation (especially in terms of setting the effective date). The rules are also tightened for reporting particular components of equity after the transformation (mainly retained earnings). In addition, the new accounting rules change the reporting of any revaluation of assets that shows up for the first time in

the opening balance sheet of the successor company. The amendment will become valid on 1 January 2012.

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Investment incentives to also be provided for research and development

The government, at its meeting on 19 October 2011, approved the draft amendment to the Investment Incentives Act which significantly expands the scope of support provided to investors in the Czech Republic. Newly, companies that are engaged in research and development such as entities building technology centres, providing strategic services or developing new software will also be able to benefit from investment incentives. The amendment also extends the application of tax credits from the current five to ten years and introduces the new concept of a strategic investor who can be given direct financial support for acquisition of property.

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The Supreme Administrative Court again reviewed dependent work

An evaluation of the differences between dependent work and activities under a contract for work has appeared in two new judgements of the Supreme Administrative Court (SAC). In the first, the SAC said that for the international hire of a labour force it is not essential what kind of contract is concluded between the provider of foreign workers and their Czech user. In this case a contract for work was formally signed but the status of the hired foreign workers was similar to the status of employees of a Czech entity; in particular, there were clear signs of dependent status.

The second decision concerns the distinction between dependent and independent work activities. Contracts for work were concluded between the company and its workers. According to the SAC, however, the real relationship showed signs of employment. First of all, only the work and not the material used was invoiced, the invoice was issued regularly once a month, the workers had fixed working hours and did not pay rent for the space in which they performed work for the company.

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Accounting

How to post corrective accounting entries in the accounting books

In the event that an entity discovers a material misstatement in its accounting books and its financial statements have already been approved by its general meeting, the accounting records relating to the period cannot be further amended. Instead, the corrective accounting entry should be posted into the accounting books of the current period. This is how the issue is defined by article 17, paragraph 4 of Act. No. 563/1991 Coll., on Accounting (the "Accounting Act"), which allows entities to post corrective accounting entries only until the moment the financial statements are approved and no later than by the end of the subsequent accounting period (the statutory deadline for preparation of financial statements).

An entity may, however, identify a material misstatement in its accounting books before its financial statements have been approved, however, after the end of subsequent accounting period. The statutory body of such an entity then has to decide whether to comply with article 17, paragraph 4 of the Accounting Act and thus decides not to record the corrective entry in the relevant accounting books. In this case, though, the financial statements would be materially misstated and would no longer give a true and fair view of

the subject matter of the accounting and financial position of the entity in question. This could ultimately lead to a qualification in the audit report. During the decision making process it is therefore recommended that the statutory body evaluate the matter from all perspectives, fully understand all the implications and take into account any tax impact of any selected approach.

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Employees

The ceiling for payment of social security will fall

The annual maximum assessment base for social security will be reduced to 48 times the average wage in 2012. The ceiling for payment of social security will thus drop to CZK 1,206,576 (compared to CZK 1,781,280 in 2011). The maximum assessment base for health insurance remains at 72 times the average wage and will amount to CZK 1,809,864 in 2012. Employers should therefore ensure proper setup of payroll systems and consider the reduced social security ceiling for cost optimisation.

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Employees

Remember Schengen rule 90/180

Failure to observe or wrong interpretation of this basic rule is a perennial issue in the movement of citizens from countries outside the EU in the Schengen area. The rule says that citizens of countries outside the EU who enter the Schengen territory using the visa-free regime can stay there without a visa as tourists for a maximum period of 90 days out of 180 days. The number of days spent in the Schengen area also includes the date of entry and exit. It should be borne in mind that the Schengen area overlaps but is not identical to the area of the EU – Switzerland and Norway belong to the Schengen area although they are not EU member states, unlike Great Britain which is not part of the Schengen area although an EU member country.

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Analysis

VAT exemption does not bring a tax advantage to the banking sector

Research undertaken by PwC and the University of Warwick (UK) over the last month has concluded that the current VAT exemption applying to banks does not lead to a tax advantage for the sector. This is in stark contrast to the view expressed by the EU Commission which has commented that “the financial sector enjoys a tax advantage of approximately EUR 18 billion per year because of VAT exemption on financial services”. This view has been used by the EU to justify the new draft Directive on Financial Transaction Tax (“FTT”).

Under the current VAT exemption system, banks do not charge their customers VAT, but in return they cannot recover VAT on costs they incur. VAT is meant to be a tax on final consumers and the VAT exemption for banks moves away from this principle by imposing the irrecoverable VAT on the banks themselves. If EU banking services were to become subject to VAT, banks would be able to fully recover the VAT on their costs and EU government revenues from this source would decrease. While banks’ customers would be charged VAT, business customers would recover

this so that government VAT revenues would only increase by the amount of VAT charged to non-business customers of banks.

This analysis prepared by PwC and the University of Warwick is the most sophisticated analysis of the impact of the VAT exemption on the banking system that has been undertaken. The analysis is a significant contribution as it clearly contradicts the widely held view that the VAT exemption system leads to less tax being raised than would be the case if banks’ services were fully subject to VAT.

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Competition

Get an Award for Innovation

- Do you own or manage an innovative company?
- Have you realised a successful innovation in the last year?
- Are you creative?

Register for the competition Czech innovation 2011

The competition aims to find successful innovations and promising ideas, evaluate the authors and subjects who implemented them or help them find the application on the market.

You can register by **30 November 2011** at www.ceskainovace.cz.

„Czech entrepreneurs are not missing good ideas but they do need conditions that will enable them to successfully sell these ideas. Many Czech innovators also have to acquire business acumen and many businessmen will have to improve their ability to manage the company so that ideas really produce results. The winner will be Jara Cimrman with the soul of Tomas Bata,“
said Jiří Moser, managing partner of PwC v ČR.

More information can also be found at www.pwc.cz/inovace.

**We invite you**

PwC Academy of Leadership in Finance

Why participate?

- The only soft-skills training prepared specifically for financial and HR directors.
- Exceptional quality and level of expertise – you will be taught by those who teach our managers.
- Practical examples will show you that the key to success as a manager is good leadership of your team.
- You will become part of the PwC business community and gain access to our know-how.

Topics and dates of the modules

- 1) **“Continuous professional development: Keeping the CFO’s knife sharp!”**
4 November 2011, 8:30 – 12:00 – in English
- 2) **“How to develop a good team? Release the lions!”**
21 November 2011, 8:30 – 12:00 – in Czech
- 3) **“How to measure investment in education? Reap the rewards!”**
26 January 2012, 8:30 – 12:00 – in Czech

Venue

PwC, Kateřinská 40, Prague 2

Price

CZK 5,000/one module

CZK 12,000/discounted price for three modules

The prices are exclusive of VAT.

Registration

If you are interested in participating, please complete the registration form on www.pwc.cz/leadershipinfinance or send an email to the.academy@cz.pwc.com. Questions regarding this project will be answered by **Jan Hrubý**, tel.: +420 251 152 030.

We look forward to your participation!

We organise seminars, training and conferences for our clients and business partners, and will be pleased to welcome you on any of these as well. In the near future we are preparing:

- The rise and fall of transfer pricing – current trends and current issues in practice
- Key changes in tax, law and accounting

We kindly refer you to our website where you can find dates and more information on seminars.

www.pwc.cz/events

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