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CE Tax&Legal Highlights

April 2019

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Czech Republic

A new crime of obstruction of justice and its impact on submitting means of evidence

With effect from 1 February 2019, a new provision of Section 347a was introduced in the Criminal Code (Act No. 40/2009 Coll., the Criminal Code, as amended) stipulating a crime of obstruction of justice. Its substance is the effort to prevent obstruction of just decisions of a court or another body by proceedings participants supporting their statements by submitting forged or modified evidence.

What does obstruction of justice mean?

The crime of obstruction of justice may be committed in two ways.[1] Our article will only focus on the state of facts in Section 347a (1) of the Criminal Code that is quite controversial for both the professional and general public. This state of facts introduces the punishability of submitting forged or modified evidence as authentic in proceedings before court or an international body of justice or in criminal proceedings.

For committing this crime, perpetrators may be punished by a prison sentence with a term of up to two years. If additional conditions stipulated by the Criminal Code are met, perpetrators may be subject to a stricter sentence with imprisonment of up to ten years.[2]

Before the crime of obstruction of justice was introduced, only submitting a false expert opinion or public deed was punishable with respect to submitting evidence. From now on, submitting practically any forged or modified means of evidence (both documentary or material) that has a substantial impact on a decision as if it were authentic may be punished. It will be up to the court to decide whether the evidence has a substantial impact on the decision.

At the same time, the perpetrator has to act with the intention to submit forged or modified evidence as authentic. An act of a person submitting forged or modified means of evidence without having any reason to doubt its genuineness and authenticity is thus not relevant in terms of criminal law.

The last legal condition is that such evidence must be submitted as part of court proceedings, in proceedings before an international body of justice or law enforcement authority. The crime of obstruction of justice thus does not relate to submitting forged or modified means of evidence in, for example, administrative or tax proceedings. This brings us to the question of how the courts will interpret a situation in which a plaintiff in court proceedings following immediately after administrative proceedings refers to forged or modified means of evidence submitted in administrative proceedings and filed with an administrative body in order to support the plaintiff's statements. In our opinion, there is a chance that these means of evidence may be understood in the future as being "submitted" by the plaintiff in proceedings before court and the plaintiff may become a perpetrator of the crime of obstruction of justice.

How will this issue be treated in practice?

In our opinion, a crime may be constituted typically in situations in which a plaintiff in proceedings before court intentionally submits a purposive backdated

[1] In a simplified explanation, the first way is submitting forged or modified evidence as authentic; the other way is providing, offering and promising benefit in order to commit a crime of false accusation, false testimony or false expert opinion, or false interpreting.
[2] This will typically include situations in which the crime will be committed on the grounds on certain qualified motives, in connection with the performance of certain qualified activity, as a member of an organised group or if such a member causes damage in a qualified amount.

contract in order to simplify supporting legitimacy of the plaintiff's claim raised as part of the legal action. If there is any suspicion that the evidence was forged there is a threat of criminal prosecution of the plaintiff on the grounds of a crime of obstruction of justice. The prosecution may be started, for example, at the initiative of a judge who advances the case to the police or a public prosecutor. In this situation, the court proceedings may be suspended until it is resolved whether forged or modified means of evidence were submitted by the plaintiff. A situation in which court proceedings are extended by months or years may easily occur. There is also a chance that a defendant against whom the plaintiff's claim is raised may use this approach to cause delay in the proceedings.

In addition to the example above, a similar approach may be easily applied to submission of backdated invoices, fictitious acceptation of debts or falsified transport documentation.

Will the introduction of the new crime effect the relation between a client and an attorney at law or a tax advisor?

An attorney at law is bound by the Code of Ethics that prevents him from verifying whether the client's statements are true or complete.[3] Attorneys at law are not authorised to ask clients whether a deed (or any other means of evidence) submitted by clients is authentic or forged/modified. Clients thus do not have to worry that attorneys at law will cast doubts on any deeds submitted by their clients.

On the other hand, an attorney at law is a client's representative who in fact submits the evidence. Thus, attorneys at law may ask their clients to sign amendments to agreements on the provision of legal services by which clients will be informed about the possible consequences of submitting forged or modified means of evidence.

The situation of tax advisors may be rather different as the above rule does not apply to tax advisors and the Chamber of Tax Advisers of the Czech Republic does not bind its members to follow any such rule. Although tax advisor's activities will be more typical in administrative and tax rather than court proceedings as stated above, certain circumstances may occur in which the crime of obstruction of justice may be constituted by submitting forged or modified evidence in the pre-trial part of proceedings (administrative or tax proceedings). In the absence of the above-described rule, tax advisors may start reviewing documents submitted by their clients more carefully for prudence reasons.

In our opinion, the most probable consequence of the situation will be that clients will be asked by their attorneys at law or tax advisors to sign a declaration that the evidence provided to the attorneys at law or tax advisors to be submitted is authentic and the client has no doubt of its authenticity. We believe that the preventive measures adopted by attorneys at law or tax advisors will not have (and may not have in issues such as confidentiality) any effect on their relations with clients. Clients thus do not have to worry that their relations with their legal and tax advisors will be substantially altered in the forthcoming future.

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[3] Refer to Section 6 (3) of Resolution of the Board of Directors of the Czech Bar Association No. 1/1997 of the Bulletin dated 31 October 1996 stipulating the rules of professional ethics and the rules of competition of attorneys at law in the Czech Republic (the Code of Ethics).

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Expansion of exemption from real estate acquisition tax

The Chamber of Deputies approved a legal provision amendment that will allow exempting from real estate acquisition tax also the first acquisition of an apartment unit in a detached house against payment, not just in an apartment building.

At present, exemption from real estate acquisition tax applies to the first acquisition against payment of ownership title to the construction of a detached house, to a plot of land or the right to construction including the construction of a detached house, and to a unit including an apartment and a garage, cellar or storeroom used together, which are found in an apartment building.

However, there are an increasing number of cases where apartment units are delimited in detached houses as well. This occurs for various reasons, for example, because certain areas allow only the construction of detached houses. The first acquisition of such an apartment unit against payment is currently not exempt from real estate acquisition tax.

Financial administration vs. taxpayers

Although certain tax administrators have admitted the exemption from tax even for apartment units in detached houses in the past, the Financial Administration objected against such treatment and emphasised that the legislative objective was indeed to exempt only apartment units in apartment buildings, whether to prevent the construction of "horizontal panel buildings" or due to stricter regulation of apartment buildings. However, taxpayers disagreed with this interpretation as they perceived this exemption as a motivational element for the acquisition of a new apartment regardless of whether it was found in a detached house or an apartment building.

Deputies agreed with taxpayers

The Chamber of Deputies has granted the requests of taxpayers who pointed out the discrepancy in the exemption from real estate acquisition tax in the case of a new apartment unit in a detached house, and it approved an amendment to Senate Ordinance No. 340/2013 Coll., on Real Estate Acquisition Tax, within the terms of Act No. 254/2016 Coll. The amendment will also allow the exemption of the first acquisition of an apartment unit in a detached house against payment.

The amendment will come into force on the first day of the calendar month following its publication in the Collection of Laws. The exemption will apply only to apartment units in detached houses acquired after the effective date of the amendment.

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2020 Tax Package Proposal

Shortly after this year's tax package was approved (with effect from 1 April 2019 – detailed information is available here), the Ministry of Finance has prepared a draft bill to amend the following tax legislation with effect from 1 October 2020.

- As we have already informed you, an EU directive has been transposed into the Value Added Tax Act aimed at improving the existing system of intra-Community supply of goods, affecting, inter alia, the rules for supply of goods to another EU member state, the call-off stock regime as well as a special regime for travel services.

- The already-completed transposition of the ATAD Directive into the Income Taxes Act has been extended to include the borrowing costs restriction to be also applicable to private corporation owners as well as the taxation of controlled foreign entities in the case of basic investment funds. These matters are not specifically addressed in the current wording of the Act.

- Introducing the reporting duty of selected cross-border arrangements for intermediaries (advisors) and taxpayers in the Act on International Cooperation in Tax Administration and the Act on Special Court Proceedings.

- A change in the European Union's customs territory has been reflected in the Excise Tax Act; specifically, the Italian municipality of Campione d'Italia and the Italian waters of Lugano Lake were added.

Circulation of the draft bill for external comments is underway, with numerous comments aimed at specifying the forthcoming changes presented by the Chamber of Tax Advisers of the Czech Republic. We will keep you informed on the future developments of the legislative process.

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VAT news in April

The Czech Tax Administration published an overview of most changes introduced by an amendment to the VAT Act. Case C-201/18 Mydibel assessing sale and lease back transactions in terms of VAT may have significant impacts on the lease market in the Czech Republic. In case C-275/18 Milan Vinš, the Court of Justice of the European Union (CJEU) assessed a potential exemption from VAT in the exports of goods. More information is available in the article.

"April" amendment to the VAT Act

In relation to an amendment to the VAT Act effective (with certain exceptions) since 1 April 2019, the Czech Tax Administration ("TA") published on its website a detailed overview of the majority of relevant changes. Furthermore, the TA drew attention to the fact that the amended VAT Act also updated selected names and descriptions of the items in the form as well as instructions for completing the VAT return (the content and structure of the VAT return remain unaffected). The TA also emphasised that the xml structure of the Local Sales/Purchases Report was going to be updated as well (however, the existing xml structure of the Local Sales/Purchases Report is to be unchanged until 30 September 2019).

Information as to the treatment of vouchers in line with the updated VAT rules is anticipated to be published by the TA in the near future.

Judicature of the Court of Justice of the EU (CJEU)

Case C-201/18 Mydibel assessing sale and lease back transactions in terms of VAT, may have significant impacts on the lease market in the Czech Republic. The CJEU concluded that in general terms, such transactions solely constitute financing rather than a supply of goods and their leaseback to the supplier. At first sight, the case at hand could also affect other lease financing structures; nevertheless, we believe that its effect is relatively limited.

In case C-275/18 Milan Vinš, the CJEU assessed a potential exemption from VAT in the exports of goods. Apparently, not all conditions in Section 66 of the Czech VAT Act applicable to the supply of goods for exports exempt from VAT are in line with the EU's VAT Directive. The CJEU opines that a failure to comply with the formal requirement for placing goods under the "Exports" customs procedure cannot result in the exporter forfeiting the right to the VAT exemption applicable to exports. It will be sufficient to prove that the goods in question have actually exited the territory of the European Union.

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New Reporting Duty for Tax Payers

The amendment to tax legislation, which is effective from 1 April 2019, introduces a new reporting duty for tax payers. Income that is generally subject to withholding tax in the Czech Republic but is exempt or not subject to taxation in the Czech Republic based on the applicable double taxation treaty will need to be reported to the tax authority.

Payments that exceed CZK 100,000 and that are exempt or not subject to taxation by withholding tax (e.g. dividends, interest, licence fees) will be reported on a monthly basis. If such income is paid off during April 2019, the first report should be filed as early as in May 2019. The Ministry of Finance has already released the relevant form on the financial administration's website. It is also possible to apply for an exemption from the reporting duty with the tax authority for up to 5 years. The application should be submitted to the relevant tax office; however, it has not been specified what reasons will be considered by the tax administrator to be relevant for the exemption of the tax payer from the reporting duty.

We recommend analysing whether your company pays off any income that is subject to the reporting duty and consider taking additional steps in this regard, if relevant.

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Hungary

Positive development relating to VAT reclaims concerning uncollectible receivables

Based on the ruling (case C-246/6) made by the Court of Justice of the European Union at the end of 2017, taxpayers have had a theoretical opportunity to decrease their tax base by reclaiming VAT on transactions settled by them but financially not settled by their partner ("uncollectible receivables").

At the same time, despite the ruling, the possibility to decrease the tax base was uncertain, as the effective Hungarian regulations do not provide for this opportunity. One of the administrative courts is trying to solve this controversy in a current case, also supported by Deloitte's expert. The Court has recently suspended the procedure and has transferred the case to the Court of Justice of the European Union to conclude a preliminary ruling procedure in order to settle the current legal dispute between the parties.

The already high significance of the case is further increased by the fact that the receivables in the case lapsed in 2008; i.e. in the case of lapsed receivables, the court also found it reasonable to file a request to the judicial bodies of the EU. This is especially good news, as it was typical in the period 2008-2011 that transactions were not settled financially due to insolvency. The question of limitation may only arise in connection with receivables qualified as uncollectible.
Based on the above, our clients are advised to review the exact amount of receivables they might have which may be qualified as uncollectible. This review and subsequently the initiation of the decrease of the tax base should be done as soon as possible, considering that the Court of Justice of the European Union is due to make a decision in the aforementioned case in only 1-1.5 years, during which period receivables that may be qualified as uncollectible might reach their limitation period. Both with reviews of receivables and with the initiation of the decrease of the tax base, Deloitte's experts are happy to help Clients.

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Kosovo

The Administrative Instruction No. 01/2019 setting forth the requirements, conditions and procedures for the creation of the unique identification number.

This Administrative Instruction is part of steps taken in order to update business registration and identification in the Republic of Kosovo.

This Administrative Instruction, has been published with the intention to define the requirements, conditions and procedures for the creation of the Unique Identification Number (hereinafter: UIN) for business organizations.

Any person, be that a legal person or a physical person in order to pursue an economic activity independently as a business has to apply and to be provided with a UIN by the Kosovo Business Registration Agency (hereinafter: KBRA).

For purposes of the creating and assigning the UIN, the KBRA after the establishment of the business organization will provide the name of the business organization; the headquarters' address, the legal form as per Article 23 of the Law on Business Organization No. 06/L-016; the date of registration; the UIN of the business organization and information on the business.

In accordance with Article 266, paragraph 4 of the law on Business Organizations, KBRA and the Tax Administration of Kosovo have to coordinate for the changes, specifically for the timeframes for obtaining the UIN for business organizations.

After the new KBRA system becomes operational, all business organization will have six (6) months, to submit to the KBRA the necessary documentation for obtaining the UIN. If any business organization fails to submit the request for the UIN, then the KBRA and TAK will assign the UIN automatically.

The Law for the prohibition of games of chance No. 06/L-155 has been published, as per the Resolution No.06-R-016 of the Parliament

This Law is the final step towards the prohibition of Games of Chance, steps taken to curb the illegal activities occurring in the premises of such establishments

Similarly, to resolution No. 06-R-016, this Law also is relatively short, with the intention to prohibit and close establishments of games of chance in the entire territory of Kosovo.

The Law abrogates, the previous Law on Games of Chance No. 04/L-080 and all of its sub-legal acts.

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Poland

Online cash registers – fiscal sales e-reports go live

The lengthy legislative process has come to an end. The law amending the Value Added Tax Act and the Measures Act has been adopted by the President. A gradual revolution in fiscal sales reporting is about to begin. The time has come for online cash registers.

Online cash registers – legislative process

For some time now, the Ministry of Finance has been planning to launch electronic reports on sales recorded by fiscal cash registers. The first draft of the new law was published on the website of the Government Legislation Centre in September 2017 and its final version was passed on to the Sejm at the end of April 2018. The parliamentary work began at the outset of 2019 and finally ended on 22 March 2019, when the adopted law was forwarded to the President to be signed.

Notwithstanding the legislative process in progress, cash register manufacturers have for some time been getting ready for the introduction of online cash registers. This is allowed under the Regulation of the Minister of Entrepreneurship and Technology of 28 May 2018 *laying down the criteria and technical conditions to be met by cash registers*, which apply to this type of registers. What is more, during the last quarter of 2018 the Ministry of Finance published technical specifications for manufacturers, including a technical description of the communication protocol referred to in the Regulation.

Meanwhile, users are awaiting the adoption of a new regulation on cash registers. Its draft version, which is currently examined by the Council of Ministers, has been subject to public consultation, review and interministerial discussions.

Online cash registers

Currently, taxpayers selling goods or services to individuals other than sole traders use cash registers that record transactions on paper (double roll cash registers) or electronically.

The amendments have introduced a new type, namely **online cash registers,** which will transfer data and information about events on an ongoing basis, automatically and independently of the taxpayer from a cash register to the Central Cash Register Repository. What is important, the Repository will not only receive and store data but also enable their inspection and analysis. The seller will be subject to the obligation to ensure a connection enabling the transfer of data between the cash register and the Repository. Generally, data will be reported in a short form, whereas the taxation authorities will be able to determine the frequency of their submission and the documents which have to be provided in detailed form, in a schedule sent to each cash register.

This way, the taxation authorities will have ready access to data contained in fiscal documents (such as receipts, invoices or daily reports) and non-fiscal documents printed by the register (e.g. stock issue confirmations).

Additionally, online cash registers will provide the Repository with information concerning events which are important to the operation of the register, including information on switching the register to the fiscal mode, tax rate changes, technical inspection dates or point of sale address changes. Submission of information on the last type of event should lessen the burden assumed by taxpayers, who are required to notify the tax authorities of each change in the location where the cash register is used.

New online cash registers – when?

Although the new law will come into effect on 1 May 2019, it does not mean that the new cash registers will appear in points of sale immediately. It is the legislator's intention to introduce online cash registers gradually so that they replace double roll and electronic registers entirely. Therefore, in accordance with the amendments:

- Double roll registers will be sold **until 31 August 2019**, after which time all certificates confirming compliance with the criteria as well as functional and technical requirements for such devices will become invalid. Thus, in the event that a cash register needs to be replaced or a new one purchased, the choice will be limited to electronic or online versions of the device.

- Electronic cash registers will be sold until **31 December 2022**, after which time all certificates issued for this type of devices will become invalid. Where a cash register has to be replaced or a new one purchased, online registers will be the only option available.

Notwithstanding the above, the legislator has prescribed special time limits for selected, "sensitive" goods and services the sales of which will have to be recorded using online cash registers:

- **Effective from 1 January 2020:**

  - sale of motor gasoline, diesel fuel and gas for internal combustion engines;

  - provision of motor vehicle and moped repair services, including tyre fixing, installation, retreading, recapping, as well as motor vehicle and moped tyre or wheel change.

- **Effective from 1 July 2020:**

  - provision of food and beverage services only by catering establishments, including seasonal, as well as temporary accommodation services;

  - sale of coal, briquette and similar solid fuels produced from coal, brown coal, coke and semi-coke and intended for heating purposes.

- **Effective from 1 January 2021:**

  - provision of hairdressing, beauty treatment and cosmetology services, construction services, medical care services by doctors and dentists, legal services as well as services related to the activities of fitness facilities (exclusively as regards entry).

Online cash registers – what next?

In the first place, taxpayers selling "sensitive" goods and services which are recorded with the use of fiscal cash registers should remember to arrange the replacement process carefully and buy online cash registers at a reduced cost, as proposed by the legislator.
As for the data reported by online cash registers, it will be necessary to ensure their accuracy. It is also worth considering reliance on such data for tax analytic purposes in the taxpayer's business.

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Changes to Country-by-Country Reporting laws in Poland – amendments to the Act on Exchange of Tax Information have been signed by the President

The law amending the Act on Exchange of Tax Information with Other Countries and Other Acts (the "amended act") was signed by the President on 11 April 2019. The previous version of the Act on Exchange of Tax Information entered into force two years ago (on 4 April 2017).

The primary purpose of the amended act is to clear up doubts over the use of the legislative solutions introduced originally, also in the context of the EU law as well as the guidelines set out by the Organisation for Economic Co-operation and Development (OECD). The most significant changes brought about by the amended act concern Country-by-Country Reporting ("CbCR"), which the act refers to as **provision of information on a group of entities**. The amended act sets out in detail the obligations imposed on Polish taxpayers with respect to automatic exchange of information which is derived from information concerning group companies.

The major modifications introduced by the amended act in relation to CbCR include:

(applicable retrospectively to entities whose reporting financial year begins after 31 December 2017)

- a change of the definition of a group of entities – departure from references to the Accounting Act;
- determination of the threshold amount of PLN 3.25 billion for a group preparing its consolidated financial statements in PLN (thus far, the threshold amount had been set only in EUR);

- laying down in detail the principles for conversion of the threshold amount for groups whose consolidated financial statements are prepared in a currency other than EUR (in accordance with the amended act, while converting the threshold amount a reference has to be made to the calculation methodology adopted by the parent company's country);

(applicable retrospectively to entities whose reporting financial year begins after 31 December 2016)

- provision of the substitute reporting option for countries where CbCR is not required but the country is subject to the obligation to make the CbCR filing in Poland (the amended act elaborates on the provisions which have been in force before);

(applicable following the expiry of fourteen days of the publication of the amended act – to future reporting periods)

- determination of the threshold amount calculation methodology where the reporting financial year of a group of entities is other than twelve months – one-twelfth for each month of the reporting financial year which has already begun;

- imposition of a requirement to provide additional information or explanations in CbCR, both in the Polish and in the English language version;

- setting out specific requirements for the submission of notifications, including a definition of electronic communication means, and elimination of notifications in paper form;

- introduction of the option to modify CbCR filings and notifications which have already been submitted;

- extension of the time limit for submission of notifications – under the amended act, the aforesaid time limit is three months of the end of the reporting financial year (thus far, notifications have had to be submitted by the end of the reporting financial year of the group).

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Serbia

New rulings of the Ministry of Finance – Value Added Tax

Computing VAT on a free of charge supply of spare parts by the service provider to the buyer as a part of a contractual penalty

Conclusion from the Ruling: In case that the service provider performs an import of spare parts as a recipient of goods, and afterwards transfers those parts free of charge to a person in Serbia, such transfer will be considered as a taxable free of charge supply. This is regardless of the potential basis for such transfer that may exist between the recipient of goods and the third person in the form of a foreseen contractual penalty. An invoice does not have to be issued for such supply.

The above-mentioned ruling is particularly significant for taxpayers that participate or are obligated with guarantees for goods or products.

Computation of VAT using a recalculated tax rate in case the conditions for the application of a zero-rate are not met

Conclusion from the Ruling: If a VAT-payer dispatches goods from the territory of the Serbia outside APKM to the territory of APKM and does not possess the prescribed evidence, VAT is computed using the recalculated tax rate of 16.6667% on the amount of the fee for supply of goods that is taxed using standard VAT rate of 20%, i.e. using the recalculated tax rate of 9.0909% on the amount of the fee for the supply of goods that is taxed using reduced VAT rate of 10%.

The above-mentioned ruling is especially significant to VAT-payers with supplies to APKM.

The day when the tax liability is triggered for supplies where delivery and installation of goods are performed within different periods

Conclusion from the Ruling: In case when the delivery of construction material is performed within one tax period, and installation of the same is performed within another, the supply has occurred (and accordingly the tax liability was triggered) in the period within which the installation has been performed. This is regardless of the fact that within the contract separate fees for delivery and installation are determined, due to commercial reasons. Consequently, the payments performed before the moment of supply represent an advance payment in line with the VAT Law.

The above-mentioned ruling is especially significant to VAT taxpayers who perform business activity in the field of construction, as well as the contractors, considering the fact that within these contractual relations is frequently foreseen the separation of the moment of delivery and the moment of installation, and therefore, a non-compliance with requirements of VAT Law can occur.

New rulings of the Ministry of Finance – International Taxation

The existence of a permanent establishment in the case of conclusion of a sale contract with buyers of goods by a non-resident taxpayer.

Conclusion from Ruling: Therefore, if a non-resident taxpayer performs a supply in terms of conclusion of a sale contract on the territory of Serbia with domestic and foreign buyers and on this basis realizes a revenue, it will be considered that there exists a permanent establishment of that taxpayer on the territory of Serbia, as well as the obligations that accompany existence of this establishment. On the other hand, keeping stocks of goods in the warehouse by itself should not lead to the existence of a permanent establishment.

The above-mentioned ruling is significant because it demonstrates the increasing attention that is drawn to the question of the existence of permanent establishments, which would also require from taxpayers to deal more seriously with this issue.

This ruling is particularly significant to non-residents who sell or intend to sell goods on the territory of Serbia.

Existence of an obligation to compute and pay a withholding tax on revenue on the basis of management services

Conclusion from Ruling: When a parent company abroad realizes a revenue from a resident on basis of management services, the payment of all these services will be subject to a withholding tax, regardless of the fact whether the services in question have been performed by the parent company or subcontractor.

The above-mentioned ruling is significant because it determines that when most of the services are provided through the subcontractor, this will not affect the qualification of the nature of the services, which will be considered with all circumstances involved. Moreover, the ruling is significant because it indicates that the matter of real ownership of revenue is potentially not necessary to consider in the situations described, however, only the formal recipient of the paid fee is relevant.

Ruling is particularly significant to legal entities that receive services from non-resident legal entities.

New rulings of the Ministry of Finance – Corporate Income Tax

Recognition in the tax balance sheet of expenses that include computed value added tax

Conclusion from the Ruling: If the taxpayer in his/her business records displays expenses in the amounts that include the computed value added tax, the expenses displayed in such manner should be recognized in the tax balance sheet.

The above-mentioned ruling is significant because it indicates that the fact that the taxpayer has not been entitled to right to deduct the input tax, as a result of which the value added tax was included in the value of the expenses, should not affect recognition of these expenses for the purposes of the tax balance sheet. However, we emphasize that the basic rules for recognition of expenses should still be applied (e.g. obligatory business nature of these, documentation, etc.).

The above-mentioned ruling is significant to most taxpayers of corporate income tax in Serbia.

New rulings of the Ministry of Finance – Accounting Law

Electronic signing of the inventory report and accompanying documentation

Conclusion from Ruling: Legal entities, i.e. entrepreneurs, can compile their inventory reports and its accompanying documentation in electronic form and sign it electronically.

The above-mentioned ruling is significant to legal entities and entrepreneurs who strive toward digitalization of electronic financial reporting.

Number of an invoice as an identification mark within the meaning of Accounting Law

Conclusion from Ruling: The invoice number can fill out the purpose of the identification mark, but it is needed that this option be prescribed by an internal act of a legal entity, i.e. entrepreneur.

This ruling is significant to legal entities and entrepreneurs who strive toward digitalization of the billing process.

New rulings of the Ministry of Finance - Law on Fiscal Cash Registers

Eliminating an error in the fiscal cash register in case when a complaint for a good purchased in one retail facility can be made in another retail facility

Conclusion from Ruling: There is a possibility that a buyer, on a basis of a fiscal receipt, makes a complaint for goods in different retail facilities of the same business entity, under condition that this is in line with the business policy of that business entity.

The above-mentioned ruling is particularly relevant to persons operating in the retail sector.

The absence of obligation to record through the fiscal cash register a supply performed from the sale of gift vouchers

Conclusion from Ruling: There is no obligation to record through the fiscal cash register a supply performed from the sale of a gift voucher. If such supply is performed, it is necessary to separate the supply from selling gift cards from the supply of goods and services and keep a record of the number of vouchers indebted.

The above-mentioned ruling is particularly significant to retailers that sell gift vouchers.

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Slovakia

Brexit and its implications from the tax perspective. Will it have an impact on you?

The withdrawal of the United Kingdom from the European Union will have implications for citizens, businesses and administrative authorities both in the UK and in the EU. The Financial Administration is raising awareness in this area by constantly updating the information on its website.

It also provides a summary of information related to direct taxes. Brexit will not affect the valid Double Taxation Avoidance Treaty between the United Kingdom and the Slovak Republic. The income of a taxable person with limited tax liability (UK tax resident) generated from sources in the Slovak Republic will continue to be governed by Article 16 of the Income Tax Act (Source of Income of a Taxable Person with Limited Tax Liability) and related ITA provisions.

Following Brexit, a UK tax resident will not be considered a taxable person of an EU Member State, nor of another state which is a party to the Agreement on the European Economic Area. Such a taxable person will be subject to taxation in accordance with the Income Tax Act as a taxable person of a "third country". Changes affecting such taxable persons will take effect after Brexit, primarily in the following areas of Income Tax Act application:

- Exemption of interest and licence fees, as set out in Article 13 (2) (f) and (h) of the Income Tax Act;
- Application of a tax security;
- Advantages related to measurement of an in-kind contribution at historical costs pursuant to Article 17d of the Income Tax Act;
- Advantages related to mergers by acquisition, mergers by formation, or divisions of a company or cooperative at historical costs pursuant to Article 17e of the Income Tax Act;
- Special regulation related to payment of "exit tax" in instalments pursuant to Article 17g of the Income Tax Act;
- Sustainability of tax-deductible expenses pursuant to Article 19 (3) (k) of the Income Tax Act.

All information published by the Financial Administration can be found **here**.

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The Court of Justice of the European Union (CJEU) has ruled in a case regarding the granting of an A1 certificate to nationals of third countries residing legally in a Member State

The CJEU delivered its judgment in Case C-477/17 related to two Russian figure skaters (Lukachenko, Balandin) employed by Holiday on Ice Services BV with its registered office in the Netherlands. As part of their employment, the figure skaters practice in the Netherlands before the season and perform during the season in the Netherlands and other Member States, in particular in France and Germany. All the concerned employees are third-country nationals who stay legally in the Netherlands with work permits being issued to them. They also stay and work legally in other Member States on the basis of a visa known as a "Schengen visa". For many seasons, the Dutch Social Insurance Bank issued A1 certificates to such employees establishing that they were covered by the social security legislation of the Netherlands. However, from the 2015/2016 season onwards, the Social Insurance Bank refused to issue such certificates, arguing that they had been incorrectly issued in previous years. It thus refused their applications in that regard on the ground of their nationality, as third-country nationals are not subject to the same rules as EU citizens.

The dispute was referred to the CJUE with a question as to whether the rules of coordination of social security systems also apply to third-country nationals who temporarily reside and work in different Member States and have an employer established in a Member State.

The question submitted to the CJEU particularly refers to Article 1 of Regulation (EU) No. 1231/2010 extending the rules laid down by the Regulation on the coordination of social security systems within the EU to third-country nationals. The disputed issue mainly comprises the translation of provisions laid down by this Regulation, as its application is subject to the condition that these persons are legally resident in a Member State. The term "legal residence" is not defined in the basic regulation, which leads to different interpretations in various language versions. "Legal residence" differs from the terms "residence" (the place where a person habitually resides) and "stay" (temporary residence). In some language versions, the interpretation of "legal residence" is closer to long-term habitual residence, while in others it is translated and understood as a short-term or temporary residence.

The CJEU has ruled on the above and held that third-country nationals who temporarily reside and work in different Member States in the service of an employer established in a Member State may rely on the coordination rules laid down by basic Regulation (EC) No 883/2004 in order to determine the social security legislation to which they are subject, provided they are legally staying and working in a Member State. Thus, they may be granted an A1 certificate under the specified conditions.

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