



## Tax Quarterly

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### MANDATORY DATA BOXES FOR ALL USERS OF E-IDENTITY

A major legislative amendment has been recently adopted in connection with the computerisation of the public authorities' procedures. The amendment also includes an electronic communication tool which is designed to facilitate how communication with public authorities takes place (e-identity). Despite being very practical and useful, however, it is not without potential unexpected problems.

The state will automatically set up a data box for those who log in with an electronic identity to eGovernment services such as the Citizen Portal, My Taxes, the ČSSZ ePortal, etc. The data box will then be automatically activated after a certain period of time, even if the citizen has never logged in. This may sound relatively innocent, but from that point on the data box will be used to deliver documents from the Police of the Czech Republic, courts, municipal authorities, financial authorities, etc., instead of sending them by mail into one's own hands. After the expiry of 10 days, documents will automatically be deemed to have been delivered as if the owner of the data box had personally received it. Also, most submissions to the tax authorities (e.g. tax returns) will then have to be sent electronically, i.e. not in hardcopy form.

Underestimating this can bring unpleasant and often irreversible consequences. On the one hand, postponing setting up the data box may be practical, but on the other hand, the person concerned may not remember that using e-identity automatically establishes their data box. Although the Ministry of the Interior will inform users that a data box has been established for them, it will be via email, which can easily get lost in one's inbox or spam folder.

### INCREASED TAX BENEFIT FOR SECOND, THIRD AND SUBSEQUENT CHILDREN

As early as this year, families will benefit from higher tax bonuses for their second, third and each additional child. The tax benefit for the second

child is increased to CZK 22,320 per year (by CZK 2,916) and for the third and every other child to CZK 27,840 per year (by CZK 3,636). The tax benefit increase will not be applied until after the end of 2021 as part of the annual tax settlement. When calculating the advance payment of employment income tax during the year, the current level of tax benefits is still taken into account by employers.

Moreover, the absolute cap for the payment of the monthly tax bonus for children will be abolished. The abolishment will apply after the end of 2021. So far, employers could only apply the bonus up to CZK 5,025. The balance will be settled in the annual tax settlement. As of 2022, the higher tax bonus will be applied throughout the year.

### NEW VAT RULES FOR E-COMMERCE

As of 1 October 2021, the Czech VAT Act will reflect the new EU rules on the application of VAT to distance selling (mail orders) and online trading. The much-discussed abolition of the VAT exemption for small consignments (up to EUR 22 when importing goods from third countries) is also taking place.

Many large online stores have already adapted to the new rules. In practice, we can see online stores automatically carrying out customs procedures. Therefore, there is no fear of delays in delivering shipments to customers. However, for smaller e-shops, especially those that are merely websites for ordering goods, the possible effects of the newly required customs clearance need to be taken into account.

### LEASING OUT PROPERTIES VIA AIRBNB IS A BUSINESS

Leasing out properties via Airbnb is a frequently discussed topic. In the past, hosts commonly declared the amounts collected from guests as rent, which helped them tax the income better. The Municipal Court in Prague has definitively confirmed that leasing properties via the Airbnb platform constitutes accommodation services and



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therefore a business. This brings other, often unpleasant consequences, such as the obligation to have a business license for accommodation services, to register for social security and health insurance as a business, or to start paying VAT.

### **TIME TEST FOR THE EXEMPTION OF PROCEEDS FROM THE SALE OF EXCHANGED SHARES**

The Supreme Administrative Court (the "SAC") held in a recent judgment (Case No. 8 Afs 246/2019) that the 'time test' is suspended if shares are exchanged for shares with a higher nominal value as a result of an increase of the company's registered capital. By having done so, the SAC confirmed the decision of the tax authority, which did not recognise the exemption for individuals (shareholders) and assessed tax of CZK 13.8 million. The SAC made this ruling despite the fact that it itself quoted in its judgment from the commentary to the Corporations Act that an increase of share value is only a technical process, that the shares remain the same thing and it is definitely not the issue of (another) security.

We draw attention to the judgment because we find the decision surprising. We believe that it is not in compliance with the Income Tax Act, and that it also contradicts the previous legal opinion of the tax authorities published by the Coordination Committee.

### **SERVING AS A COMPANY'S EXECUTIVE BODY CONSTITUTES A BUSINESS OPERATION IN TERMS OF VAT**

The Supreme Administrative Court confirmed even for joint-stock companies that one's serving as a director (a member of the company's executive body) constitutes a business operation in terms of VAT. The remuneration should therefore be subject to VAT.

However, there is still a rule in the Czech law that exempts one's serving as a director from VAT by reference to the method of income taxation. It is therefore still possible to choose the VAT regime.

However, the situation needs to be monitored, as the Ministry of Finance may bring the VAT Act into line with the legal opinion of the Supreme Administrative Court in the next amendment.

### **TAX ON STUDENT JOBS**

Every year, questions arise in relation to student part-time jobs as to how best to tax such earnings, what discounts can be applied, etc. The tax authorities have published a useful Summary of Practical Information on its website to guide and help students in the future.

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Tax Quarterly highlights selected topics that may be of interest to general business professionals. Kocián Šolc Balaščík's Tax Department is ready to provide you with details on any of the issues outlined herein, as well as to assist you in finding answers to particular questions.

For details or consultation on specific issues, please contact any tax advisor at Kocián Šolc Balaščík.

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This summary provides only basic information, which in no way can replace the full text of the relevant legislation. The information contained in Tax News is not legal advice or opinion. Kocián Šolc Balaščík is not responsible for any activities or actions resulting from the information contained in this issue.

If you need more detailed information when solving specific problems, please contact any tax advisor at Kocián Šolc Balaščík. We will be happy to provide you with more detailed information on the issues above.

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