



Tax News: A Summary for Non-Tax Specialists

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EXTRAORDINARY DEPRECIATION CAN BE CLAIMED FOR THE LAST TIME FOR TANGIBLE ASSETS ACQUIRED IN DECEMBER 2021

Extraordinary depreciation, which was restored as a part of the support for businesses during the coronavirus outbreak and which allows newly acquired tangible assets classified in groups 1 and 2 to be claimed as costs very quickly, can be used for the last time for assets acquired before 31 December 2021. It is important that the particular asset has been brought into a state of normal use by that date and that it will be the first time that the asset is being depreciated (extraordinary depreciation cannot be claimed, for example, on the acquisition of a used vehicle that has already been depreciated by the previous owner).

When making up one's mind whether to carry out tax depreciation or not, it should be taken into account that extraordinary depreciation is made on a monthly basis. Therefore, for assets acquired in December 2021, no depreciation will be expensed in 2021 under the extraordinary depreciation method. If the objective is to maximize 2021 costs, accelerated depreciation might be the way.

RECLAIMING TAX LOSSES

We would like to remind you of a new rule that has not yet been fully established in practice. It has been included in the Income Tax Act to help businesses overcome the coronavirus related-impacts, but unlike the extraordinary depreciation mentioned above, it is a permanent change.

A tax loss can be claimed as a reduction of the tax base not only in the five following tax periods, but also retroactively for the two preceding tax periods. Therefore, if a taxpayer has a tax loss for 2021 and, on the contrary, has made a profit in the previous periods, he/she can file an additional tax return and retroactively reduce his/her 2020 or 2019 tax base by the 2021 tax loss. The tax authority will then refund the relevant portion of the previously paid tax.

The maximum amount to be reclaimed is CZK 30 million (the amount of the tax loss that can be claimed in five consecutive tax periods is not limited by any threshold).

If the taxpayer claims the tax loss retroactively and is sure that he/she will not want to claim it in the future, he/she can waive the opportunity and reduce the period during which the tax administrator can examine the tax for the five subsequent tax periods. However, this decision must be notified to the tax authorities no later than by the tax return filing deadline. The decision must be well thought out as it cannot be reversed.

DEADLINE APPROACHING FOR NOTIFYING INCOME TO BE TRANSFERRED ABROAD

As of 1 January 2021, changes have been made to the requirements whereunder income payers must file a Foreign Income Notification (the "Notification"). The Notification must be filed by taxpayers who pay income to foreign tax residents from a source in the Czech Republic that is generally subject to withholding tax, even if no tax is actually withheld, either because of the application of a double tax treaty or because the income is exempt from taxation (typically, for example, dividends or royalties).

Such income is now only reported once a year in the Notification, by 31 January of the following year. The 2021 deadline for filing the Notification is therefore 31 January 2022. The Notification is filed separately for each recipient and type of income.

HIGHER LIMIT FOR DEDUCTING DONATIONS FROM THE INCOME TAX BASE ALSO APPLIES FOR 2021

We would like to remind you that the increased limit for the deductibility of donations made for particular purposes (educational, health, humanitarian, charitable, environmental, sports, etc.) also applies for 2021, provided that the requirements imposed by the Income Tax Act are complied with, i.e. they are up to 30% of the tax

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base (in the case of legal entities, the higher limit also applies for financial years ending no later than 28 February 2022).

STRICTER CONDITIONS FOR EXEMPTING INCOME FROM SELLING A FAMILY HOUSE AND FLAT

The stricter requirements apply to the sale of a family home or an apartment in situations where the seller has resided there for less than 2 years immediately prior to the sale. Two conditions must be met in order to qualify for the income tax exemption:

- the proceeds must be used for the acquisition of their own housing needs within a period determined by law; and
- the seller must file a notice of the acquisition with his/her tax authorities by the end of the tax filing period for the tax year in which the acquisition took place.

Importantly, if the taxpayer fails to file the notice by the statutory deadline, the taxpayer will not be entitled to the exemption.

The same requirement applies to other exemptions that are conditional on the expenditure of the acquired funds to provide for one's own housing needs, such as the exemption of income from the sale of immovable property if the period between the acquisition and sale does not exceed 10 years and the exemption of compensation for vacating the apartment.

2022 MINIMUM WAGE INCREASE

The increase in the minimum wage to CZK 16,200 from 1 January 2022 will also have tax implications. It will affect, for example, the maximum amount of the discount for childcare placement (the so-called "kindergarten allowance"). For 2022, it will be possible to claim up to CZK 16,200 in childcare fees paid for one child.

Moreover, the income threshold that a taxpayer must reach in the tax year to qualify for the child tax bonus will change to CZK 97,200 (the minimum income threshold from an employer to qualify for the monthly child tax bonus will be CZK 8,100) in 2022.

Regularly paid pensions collected in 2022 will be exempt up to CZK 583,200.

2022 AVERAGE WAGE INCREASE

The new average wage level set for 2022 by government decree at CZK 38,911 will also have tax implications.

This is because the tax base on which the higher personal income tax rate (23%) is applied depends on the new 2022 average wage level. For 2022, the tax base will amount to CZK 1,867,728. This amount also represents the "ceiling" of the assessment base for pension insurance premiums and the minimum amount of pension and health insurance advances for self-employed individuals.

The minimum monthly advance payments for social insurance for self-employed individuals will increase to CZK 2,841 as of 1 January 2022, and to CZK 1,137 for individuals who are self-employed on a secondary basis. The minimum advance payment for health insurance for self-employed persons for 2022 will be CZK 2,627 and, for persons without taxable income, CZK 2,430 per month.

The decisive income for participation in sickness insurance for 2022 remains the same as for 2021, i.e. CZK 3,500 per month.

2021 AND 2022 FLAT-RATE TAX

As a reminder, a business is a flat-rate taxpayer if it is compliant with the statutory requirements and has notified the tax administrator by 10 January that it wants to be subject to the flat-rate scheme. If the business has complied with all the requirements imposed in the Income Tax Act (its self-employment income has not exceeded the CZK 1 million threshold, it did not have for the year

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any other types of income exceeding in total CZK 15,000, it did not have any employment-related income, it has not become a VAT payer, etc.), its tax will be equal to the flat-rate tax and it will not have to file a tax return or income and expenditure statements for the social administration and health insurance company.

All taxpayers who have entered the flat-rate tax scheme should therefore assess before the end of the year whether or not they comply (or intend to comply) with the requirements for the scheme and, therefore, whether the flat-rate tax to be paid will be the final tax for them or not. For example, rental income or some one-off income from selling property, units, etc. may be tricky, unless it is exempt from tax.

If the taxpayer did not manage to comply with the requirements in 2021, it remains in the flat-rate scheme, but it will calculate its tax and insurance premiums based on its actual income. It is also required to file personal income tax returns and income and expenditure statements (and pay outstanding tax and insurance premiums, if applicable). The taxpayer must also notify the tax authorities about the non-compliance within 15 days of having discovered it.

Some taxpayers are likely to find that their decision to enrol in the flat-rate scheme was premature. If they want to opt out of the flat-rate scheme and calculate their tax in the normal way, they must notify the tax authorities by 10 January 2022 at the latest; otherwise, they will remain in the flat-rate scheme for one more year.

In 2022, the flat-rate tax increases to CZK 5,994 (CZK 3,267 for pension insurance, CZK 2,627 for health insurance and CZK 100 for income tax), which totals CZK 71,928 per year.

New applicants who wish to enrol in the flat-rate tax scheme are also required to submit a notification of having enrolled in the scheme for 2022 to their tax authority by Monday, 10 January 2022 at the latest (via a data box, by mail or in person at the tax authority's office).

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AUTUMN COVID-RELATED MEASURES

The emergency care allowance will be reintroduced, as will the emergency allowance for employees who are quarantined.

Parents will be eligible for emergency care benefits from 1 November 2021 to 28 February 2022 if schools close classes due to the COVID-19 outbreak, as well as in situations where a family member must be quarantined due to a family member's having tested positive for COVID-19. The emergency care allowance will amount to 80% of the daily assessment, with a minimum of CZK 400 per day. It will also apply to so-called contract workers, who pay their own sickness insurance.

The school's confirmation that classes are closed will be replaced by an affidavit from the parent, who will state that he/she must care for the child due to the closure of the school or classroom as an emergency measure.

The extraordinary allowance for employees who are quarantined, the so-called isolation allowance, will also be reintroduced. Employees who are entitled to income compensation due to mandatory quarantine will be entitled to an allowance of CZK 370 per calendar day, but no longer than for the first 14 calendar days of the quarantine. The allowance will be payable until 30 June 2022. The allowance will also be payable for calendar days prior to the date the particular act takes force and effect if the quarantine was ordered after 31 October 2021 and continues on the date the act has taken force and effect. Employers will deduct the amount of the allowance paid from social security contributions and state employment policy contributions.

COMPENSATION BONUS EXTENDED TO APPLY IN 2022

The compensation bonus for self-employed individuals, shareholders of limited liability companies and contingent workers will also be restored. The bonus will be available for the period



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from 22 November 2021 to 31 January 2022 if the particular requirements are complied with. This time, the reference period is the period of 3 consecutive calendar months between 1 June 2021 and 31 October 2021 (this does not apply to winter seasonal operations).

The compensation bonus is now increased to the maximum amount of CZK 1,000 per day. However, not everyone will be able to receive the maximum daily bonus; the amount is limited by how much the average monthly income of the applicant before the "covid measures" exceeds the applicant's income after the measures. The bonus for contingent workers will continue to be a one-off amount of CZK 500 per day.

The conditions to which the right to the compensation bonus is subject include, for example, a drop in sales of at least 30% or the fact that the majority of the self-employed individual's income is generated by the significantly affected activity for which the drop in sales is calculated.

As in the past, the law contains a list of parties who are not eligible for the compensation bonus, such as shareholders in a limited liability company who are tax residents of a country outside the EU and EEA and whose turnover for the two tax periods immediately preceding the bonus period did not exceed CZK 120,000, foreign tax residents, unless more than 90% of their income comes from the Czech Republic, and contingent workers who have not been covered by sickness insurance for at least 3 months.

Applications covering the bonus period referred to above can be filed as of January 2022.

ACCESS TO THE OLD VERSION OF THE TAX WEBSITE WILL BE DISCONTINUED

Access to the old version of the tax website (<https://adisspr.mfcr.cz>) will be discontinued at the end of February 2022. All those who still use it will find all the functions in modernized form only on the "MOJE daně" website. There, you can only log in using your e-identity, your data box login details

or access details to be obtained from the tax authority.

LIABILITY FOR UNPAID VAT IF THE CONSIDERATION IS PROVIDED TO A FOREIGN OR NON-DISCLOSED ACCOUNT

In its judgment No.2 Afs 382/2019-33, the Supreme Administrative Court (SAC) confirmed its decision-making practice and, as in its judgment No.5 Afs 78/2017-33, held that a supply recipient's liability for unpaid VAT does not get activated on the basis of the mere fact that the recipient has paid the price of the supply (exceeding twice the amount under the Act on Restriction of Cash Payments) to an account other than the account disclosed by the tax authority.

According to the SAC, in order for the liability to be invoked by the tax authority, there must be additional circumstances which clearly indicate that the recipient knew or could have known and should have known that the supplier's intention for such payment was not to pay the tax (the so-called "knowledge test"). The tax authorities are therefore required to examine the particular circumstances that surround any such payment and that can demonstrably indicate that the intention of the payment was to avoid paying tax.

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We bring you Tax News on a quarterly basis. We select topics that may also be of use to professionals in areas not related to taxation. Kocián Šolc Balaštík's Tax Department is ready to provide you with details on the issues outlined herein or to assist you in finding answers to particular questions.

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

This summary provides only basic information, which in no way can replace the full text of the relevant legislation. The information contained in



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