



Amendment to the Income Tax Act

On 3 July 2009, President of the Czech Republic signed an amendment to Act No. 586/1992 Sb., on income taxes, as amended (hereinafter referred to as the "ITA"), drawn up by the Ministry of Finance. This amendment has been published in the Collection of Laws under No. 216/2009 Sb. and became effective on 20 July 2009. The law amends the Income Tax Act in the following areas (without limitation):

- Depreciation of tangible assets
- Financial lease-purchase agreements
- Education of employees

Depreciation of tangible assets

The mentioned amendment to the ITA brings a new option of depreciation. Newly inserted Section 30a in the ITA defines the term of "extraordinary depreciation" and the manner of its inclusion in the income tax base. Extraordinary depreciation may be applied only by the first owner. Extraordinary depreciation is related to the assets that cumulatively meet the following criteria:

- that they are tangible assets,
- that the assets are included in the 1st or 2nd depreciation group,
- that the assets are acquired during the period from 1 January 2009 to 30 June 2010.

Under Section 30a of the ITA, tangible assets included in depreciation group 1 according to Annex No. 1 to the ITA may be depreciated evenly without interruption up to 100 % of the market entry price during 12 months by the taxpayer who is the first owner of the assets. Tangible assets included in depreciation group 2 according to Annex No. 1 to the ITA may be depreciated without interruption up to 100 % of the market entry price during 24 months by the taxpayer who is the first owner of the assets, while applying depreciation evenly up to 60 % of the market entry price of the tangible assets during the first 12 months, and up to 40% of the market price of the tangible assets during the 12 months immediately following. However, extraordinary depreciation cannot be applied in relation to tangible assets depreciated under Section 30 (4) and (5) of the ITA (e.g. matrices, forms, models, templates).

Unlike other manners of depreciation determined by the ITA, extraordinary depreciation is determined by the accuracy of whole months. The taxpayer shall be obliged to commence depreciation from the month following the date when the conditions of the depreciation were met. Upon commencement or termination of depreciation in the course of a tax period the depreciation may be applied only to the amount falling within this tax period. Amounts of the depreciation shall be rounded up to whole Czech crowns.

Technical improvement of the tangible assets for which depreciation is determined in accordance with Section 30a of the ITA does not raise their market entry price. Completed technical improvement shall be included in the depreciation group in which the technically improved tangible assets are included and shall be depreciated as tangible assets under Sections 26 to 30 and Sections 31 to 33 of the ITA.



The new provision of Section 30a of the ITA became effective on the date of its publication, i.e. on 20 July 2009.

Financial lease-purchase of newly acquired assets

Act No. 216/2009 Sb. amends the provisions of the ITA related to tax deductibility with respect to financial lease-purchases. The rent of financial lease with subsequent purchase of the leased tangible assets depreciated with the use of extraordinary depreciation under mentioned Section 30a shall be recognised as expenditure (expense) under the conditions stipulated in Section 24 (15) of the ITA:

the term of lease of tangible assets depreciated by the owner (lessor) under Section 30a (1) (assets in the 1st depreciation group) shall last at least 12 months and the term of lease of tangible assets depreciated under Section 30a (2) (assets in the 2nd depreciation group) shall last at least 24 months; the term of lease shall be calculated from the date when the item was left with the lessee in a condition fit for typical use,

after the termination of the term of lease, the transfer of right of ownership of the leased object from the owner (lessor) to the lessee shall immediately follow, and

after the termination of financial lease with subsequent purchase of the leased tangible asset, the taxpayer mentioned in Section 2 shall include the purchased asset in the taxpayer's corporate assets.

The provision of Section 24 (15) of Act No. 586/1992 Sb., as amended from the date of coming into effect of Act No. 216/2009 Sb., shall be applied to the assets that are the subject of a lease-purchase agreement concluded after the date of coming into effect of this Act (i.e. 20 July 2009) until 30 June 2010 and that will be, during this period, left with the lessee in a condition fit for typical use. However, the provision of Section 24 (15) cannot be used for supplements to lease-purchase agreements concluded prior to the date of coming into effect of Act No. 216/2009 Sb.

In connection with the mentioned amendment to the ITA, it is appropriate to mention an older amendment to the ITA, implemented by Act No. 87/2009 Sb., which, with effect from 1 April 2009, introduced changes in the term of lease-purchase agreements related to the lease of movable property. It was laid down in the provision of Section 24 (4) (a) of the ITA that the minimum term of lease-purchase agreements related to movable tangible assets must minimally equal the period during which the above-mentioned assets are depreciated under Section 30 (1) of the ITA. The below-stated overview shows a comparison of the minimum term of a financial lease-purchase agreement (in months) pursuant to the former and current regulations according to the individual depreciation groups to which the changes are related:

Depreciation group	Until 31 March 2009	From 1 April 2009	From 20 July 2009
1.	36	36	12
2.	60	54	24
3.	120	114	114



Education of employees

Act No. 216/2009 Sb. also amends the provisions related to taxation and tax deductibility of expenditures connected with the education of employees. According to the new wording of Section 6 (9) (a) of the ITA, related to exemption from income tax in respect of the professional development of employees, the "performances in kind provided by the employer in connection with professional development of employees related to the objects of activities of the employer or performances in kind provided by the employer in connection with re-qualification of employees under some other legal regulation regulating employment" shall be exempted from personal income tax; "this exemption does not apply to income going to employees in this connection as wages, salaries, bonuses or compensation for loss of earnings, as well as other monetary performances provided to employees in this connection".

At the same time, Section 24 (2) (j) (3) of the Income Tax Act has been amended, according to which also the expenditures incurred by the employer in connection with the "operation of own educational facilities or expenditures (expenses) related to professional development of employees under some other legal regulation and re-qualification of employees under some other legal regulation regulating employment, if they relate to the employer's objects of activity", shall be recognised as tax deductible expenses.

On the part of the employer, all the expenses incurred in connection with professional development of the employees shall be tax deductible if the expenses relate to objects of the employer's activity. However, on the part of the employee, only those performances that are of non-monetary nature shall be exempted from tax.

The changes under preparation in taxation of natural persons and legal entities

The proposal of ČSSD for a change in calculation of personal income tax

A parliamentary proposal of an amendment to the ITA aimed at introduction of the so-called "millionaire's tax" was one of the anti-crisis measures proposed by the opposition. Though the amendment was rejected by the Chamber of Deputies, it is obvious from the statements of the Czech Social Democratic Party (ČSSD) that it will continue to work towards reintroduction of progressive taxation of personal income, which was applicable in the Czech Republic for the last time for the tax period of 2007.

ČSSD has presented several variant solutions so far. The idea of abolition of the concept of super-gross wages is common to all. The tax base would be again ascertained from gross wages reduced by contributions to health and social insurance paid by the taxpayer. ČSSD further proposes to increase the limit of the ceiling for social and health insurance from current the 48 times to 72 times the amount of average wage, or its flat cancellation. The highest personal income tax rate equalling 38 % would be applied to the tax base exceeding CZK 1,200,000.00.

If the proposed changes are adopted, the amendment to the Income Tax Act should be applicable already for the tax period 2010.



Avoidance of double taxation

Avoidance of double taxation is currently governed by conditions stipulated in bilateral double taxation avoidance treaties. The mentioned treaties determine the method of the elimination – credit method or exemption method (mostly subject to progression).

If the President of the Czech Republic signs the proposal of the amendment to the Income Tax Act, natural persons will now have the option to apply one of both methods regardless of the provisions of the given Double Taxation Avoidance Treaty. That means that the taxpayer will be allowed to choose the variant that is more advantageous for him/her. The amendment should become effective retrospectively already for the income obtained in the tax period 2008.

Deduction of expenses from income from the Czech Republic

Tax residents from member states of the European Union and member states of the European Economic Area will have the option, in respect of selected income from sources in the territory of the Czech Republic, to file a tax return at the end of 2009, in which they will use expenses related to the Czech income. This method can be applied, for instance, in respect of licence fees or interest paid abroad, when the collecting entity cannot set-off the tax withheld in the Czech Republic against its tax liability.

Shortening of the term of payment of taxes and insurance contributions

The President of the Czech Republic has already signed a government bill that amends some laws in relation to adoption of the Payment System Act. The law was adopted with the aim to harmonise the Czech legislation with the Community Law. Under the mentioned law, the terms of transfer of money should be shortened. Instead of the current 3 days, banks should be obliged to carry out a transfer from one account to another within 2 days.

However, at the same time, the law will amend Act No. 337/1992 Sb., on administration of taxes and charges (hereinafter referred to as the "ATC"), Act No. 592/1992 Sb., on general health insurance contributions (hereinafter referred to as the "GHIA") and Act No. 589/1992 Sb., on social security contributions and state employment policy contributions (hereinafter referred to as the "SSA"). Under amended Section 61 of the ATC, the "date of crediting an account of the provider of payment services of the tax administrator with the payment or, in case of cash payment made at the tax administrator, the date when an employee of the tax administrator accepts the cash" will now be considered as the date of payment of tax liability. The amendment to the ATC should become effective on 1 November 2009.

Similarly, under the GHIA and the SSA, the date of crediting an account of the bank of the relevant insurance company or social security administration with the corresponding sum will be considered as the date of payment of the contribution. The term of payment of health insurance contributions shall be unified with the term of payment of social insurance contributions. Thus the maturity of both contributions shall fall in the period between the 1st to the 20th day of the following calendar month. The amendment to the GHIA and the SSA will come into effect on 1 January 2010.



VAT

VAT Act amendment under preparation

The Government of the Czech Republic is currently preparing a vast amendment to the VAT Act, which should harmonise the Czech legal regulations with the Community Law, particularly in the area of the place of taxable supply. Moreover, the amendment includes some other changes that are not contained in the implemented European legal regulations. These are, for instance, introduction of modification of the tax base if the price does not correspond to the usual price, interventions in the regime of provision of free promotional items or modifications in the reporting of the export of goods. The bill should come into effect on 1 January 2009; however, it has not yet been submitted to the Parliament of the Czech Republic for approval.

Community Law in the area of VAT

In June 2009, a new proposal for an amendment to the community legal regulation of value added tax was submitted. The proposal also includes, besides technical measures related to the import of gas and electricity and trading with these commodities, changes in the manner to exercise the right of tax deduction in case of acquisition of real estate. According to the proposal, the right of deduction should be exercised only in the ratio in which the real estate will be used for the taxpayer's economic activities on the one hand and other activities on the other hand (private use of the property by the taxpayer or employees). It is a modification of the method that may be currently applied in the Czech Republic in claiming VAT deduction upon acquisition of a new vehicle. According to the proposed regulation, member states should be allowed to apply the new rule in claiming VAT deduction also for other types of acquired goods or property. The amendment should come into effect on 1 January 2011.

The Collection of Laws of the Czech Republic

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