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# NEWS 5/2013

## News No. 5/2013

### TAX CONSEQUENCES OF THE RECENT FLOODS

#### *The Finance Minister's Ruling*

In connection with the floods and heavy rains, the Ministry of Finance has advised on the tax consequences of the floods, emphasizing that the tax authorities will take a helpful position and provide the necessary cooperation to both individuals and legal entities affected by the floods or heavy rains.

#### *Income Tax*

In connection with the floods, the finance minister has decided to use his authority under the tax code; the following ruling will soon come into effect:

- Income tax for the 2013 tax period will be waived for both individuals and legal entities up to the amount of business-related property damage. The damage will have to be proven, declared either by an insurance company or an expert opinion.
- In the event of a late payment of advances due after the 2013 floods, related interest and other fees will be waived for individuals who are entrepreneurs.
- Legal entities wishing to reduce or suspend income tax advances may file individual requests at the financial authority. The financial authority will be as helpful as possible within the limits of their statutory competence.
- Related interest and fees will be waived for individuals and legal entities that are entrepreneurs and are subject to the payment of additional income tax for previous tax periods as at 30 June 2013 provided they repay the postponed tax no later than 31 October 2013. Persons wishing to make use of this tax relief shall inform the tax administrator accordingly, providing either evidence of having been affected by floods or their statutory declaration. The Ministry of Finance has also declared their willingness, upon request, to extend the deadline for the submission of income tax returns by taxpayers affected by floods.
- The above action by both individuals and legal entities in the course of tax proceedings will be free of administrative charges.

#### *VAT*

Donations via Donors Message Services (DMS) will not be subject to VAT.

#### *Real Estate Tax*

When dealing with the consequences of natural disasters, a municipality can make any real property located within its territory and affected by such a natural disaster exempt from taxes, completely or partly, by means of an official regulation, for a period of no longer than 5 years. The exemption may also apply to previous tax periods.

#### *Loss of accounting records and documents*

In the event of loss or damage to accounting records resulting from floods, the accounting unit is obliged to take remedial measures under the Act on Accounting to again be able to prove the accuracy of its books. Legal regulations applicable to accounting do not stipulate the method of doing so, as each situation requires an individual approach.



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Based on our experience gained after the floods in 2002, we can expect an instruction similar to D-240 to be adopted, stipulating the recommended procedure in the event of loss or damage to accounting records and tax documents in connection with the floods.

The instruction stipulated the period wherein the tax payer was obliged to report the damage to accounting documents to the local financial authority, while the tax administrator verified the situation via local investigation. If the taxpayer failed to report the damage or loss of accounting records and documents, the tax administrator could not take it into account and the tax could be assessed according to the documents available.

## **Donations granted to those affected by floods**

### Non-monetary

A taxpayer who assisted in eliminating the impacts of floods in the form of non-monetary supply can consider the related expenses as tax-deductible regardless of whether it was a material donation (e.g. dryers, food, sanitary supplies) or a service (e.g. provision of accommodation or transport). The law stipulates no other conditions with respect to the beneficiary nor does it impose any restrictions as to the amount of the supply. Such expenses, however, cannot at the same time be applied as an item reducing the tax base as a donation.

The provision of non-monetary donations is a VAT taxable supply. The tax base is the usual (market) price of the donation as of the supply date.

### Monetary donations

In connection with floods, monetary donations cannot be directly charged to income for tax purposes by individuals or legal entities as is the case with non-monetary donations. Any tax relief is possible only by reducing the tax base by the value of donations not exceeding statutory limits. Statutory limits are calculated as a percentage of the recorded tax base (10% for individuals and 5% for legal entities, or 5% more for schools). The value of flood-related donations forms part of the above total value of charitable donations provided over the tax period.

In general, the donor provides evidence of the donation provided using a document specifying the recipient, the donor, the purpose and the date of the donation.

The Ministry of Finance has already declared that monetary flood-related donations will not need a donation receipt provided it is a donation deliberately credited to a flood-related bank account, opened for the purposes of fundraising, registered in the central register of public fundraising campaigns maintained by the Ministry of the Interior. In such a case, the taxpayer will only need to present their bank statement or money order receipt.

Any help in the form of monetary donations by VAT payers is not considered a taxable supply in terms of VAT; hence, the payer has no liability to pay any output VAT.

For the recipient, both monetary and non-monetary donations will be exempt from gift tax as they are considered the acquisition of property without consideration for humanitarian or charitable purposes or the acquisition of property without consideration using public fundraising campaigns. Donations provided to employees by their employer need to follow special legislation applicable in this area – see below.



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### **Interest-free or preferential loans and social assistance to employees affected by floods**

An employer may provide an interest-free or preferential loan to its employees to help them get over a difficult financial situation in the amount of up to CZK 200,000 and up to CZK 1,000,000 for home improvement purposes.

The employee's income resulting from such interest advantage is exempt from income tax provided that the employer provides the loan out of the social and cultural needs fund (FKSP), social fund or profit after taxation.

The employer may also provide non-refundable financial assistance to its employees of up to CZK 500,000.

The above income is also exempt from tax if the employer provides the assistance out of the FKSP fund, social fund, and profit after taxation or non-taxable expenses.

**Should you encounter any difficulties with respect to your accounting or tax liabilities, please feel free to contact us. We are willing to help you with your communication with the financial authorities.**

NEWS 5/2013

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