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# NEWS 5/2014

## News No.5/2014

### Amendment to the Income Tax Act and the Tax Code

Parliament has approved a comprehensive amendment to the Income Tax Act and the Tax Code. The entire amendment, with the exception of several selected provisions, shall come into effect on 1 January 2015. Below we present the most significant changes.

#### Personal income tax

- The absolute obligation to file tax returns has already been abolished for the solidarity tax surcharge for 2014. The taxpayer has to file a tax return only if the annual tax (and not only the monthly tax advance) is increased by the solidarity surcharge.
- Taxpayers who are subject to the solidarity tax surcharge may henceforth deduct business losses from the solidarity tax surcharge assessment base.
- Any financial benefit arising from an interest-free loan granted by the employer is considered to be taxable income received by the employee if the principal amount or, as the case may be, the aggregate of the principal amounts of such loans exceed CZK 300,000.
- The dependent child tax credit shall be differentiated according to the number of dependent children. The credit for the first child stays at CZK 13,404 per year, the credit for the second child amounts to CZK 15,804 and for the third and every subsequent child amounts to CZK 17,004. The maximum amount of tax credit remains unchanged.
- A completely new tax credit for placing a child in pre-school childcare facilities has been introduced, the claimable amount being the actual costs incurred up to a maximum sum equivalent to the minimum wage (i.e. CZK 9,200 as from 1 January 2015).
- The basic tax relief per taxpayer shall be available to working pensioners again. At the same time, any pensions paid on a regular basis to taxpayers whose total income from employment, business activity and lease exceeds the limit of CZK 840,000 shall be taxed.
- The tax relief for private life insurance has been limited in cases where a part of the insurance premium is invested with the investment risk being borne by the policyholder. The new regulation concerns, from the taxpayer's point of view, the item deductible from the tax assessment basis of the taxpayer (the part of the insurance premium paid by the taxpayer) as well as the tax-free income of the employee (the employer's contribution to the life insurance).
- Henceforth there is a limit for the maximum lump-sum expenses for handcrafts and unqualified trades and agricultural production where before no upper limit existed. All income from an independent activity (business) will thus have a lump-sum expense ceiling if the income amounts to CZK 2,000,000.
- The introduction of the obligation to report tax-exempt income exceeding CZK 5 million is the key novelty from the point of view of the taxation of individuals. There is no need to report such types of income where the tax administration is able to find the data required in registers to which it has access. Significant fines and penalties are proposed for failures to fulfil the obligation to report.
- Similar to legal entities, gratuitous income in the form of a financial benefit is now exempt from tax if the total income arising from such financial benefit granted by the same entity during a tax period does not exceed the sum of CZK 100,000.

For the sake of completeness, let us summarise several personal income tax issues that remained unchanged:

- The planned deductions from aggregate wages have been discarded



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- The tax rate has not changed, progressive taxation has not been introduced
- The concept of the so-called “super-gross wage” has not been abolished
- There has been no tightening of the taxation of employee benefits other than described above

## **Corporate income tax**

- There has been a change in the taxation of investment funds. The current tax rate of 5 % shall apply solely to so-called “basic investment funds”. Other investment funds shall be subject to the tax rate of 19 %. The change shall mainly affect qualified investors funds and real estate investment funds.
- If a Czech company hires an employee from an employment agency which has no registered office but only a branch in the Czech Republic, the Czech company is liable to pay personal income tax from dependent activity. Starting from 1 January 2015, the employment agency shall pay the tax. This regulation is in response to judgements of the EU Court of Justice and the Czech Supreme Administrative Court, as we informed you in our previous News issues.
- Tax adjustment entries amounting to 100 % can be created in cases of receivables overdue for more than 30 months. Previously, more than 36 months had to elapse. Similarly, the period of time after which outstanding liabilities should be additionally taxed has been reduced from 36 to 30 months.

## **Tax Code**

- Taxable entities which have established a data box are obliged to file all tax returns, reports and statements exclusively in electronic form. A fine amounting to CZK 2,000 may be imposed for failure to observe the obligation to use this electronic means. However, should tax administration become significantly complicated, the fine may be of up to CZK 50,000.
- Under current laws, no fines may be imposed for failures to fulfil a non-monetary obligation. From 1 January 2015, a fine of up to CZK 500,000 may be imposed for failures to fulfil registration, reporting or other notification obligations or recording obligations laid down by the tax law or required by the tax administrator.
- The individual waiver of tax penalties and other charges, regulated in the Tax Administration Act until the end of 2010, has been introduced into the Tax Code. From 1 January 2015, taxable entities may thus request that the tax administrator waives penalties, default interests and interests on deferred tax payments. Penalties can be waived up to 75 % of the sum due and interest can be waived in full. However, there is no legal entitlement to the approval of such a request by the tax administrator.

## **The Ministry of Finance shall return tax relief to all working pensioners**

In our previous News issue we informed you that working pensioners are entitled to claim tax relief for 2014. At the same time, the amendment to the Income Tax Act lays down the right of working pensioners to claim basic tax relief with effect from 1 January 2015. Thus, 2013 would be the only tax period for which working pensioners could not claim basic tax relief.

However, the tax administration stated on its website that the judgement of the Constitutional Court no. I. ÚS 2340/2013 issued in summer 2014 has enabled all old-age pensioners to claim tax relief for the tax period of 2013; consequently, the provisions preventing old-age pensioners from claiming the basic income tax relief shall not apply to 2013 either.

## **Manner by which pensioners may claim tax relief for 2013**

Working pensioners may claim tax relief amounting to CZK 24,840 for 2013 via the various methods described below.



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- **Through their employer** – this applies in cases where working pensioners signed the “declaration of a taxpayer liable to personal income tax from dependent activity” for the tax period of 2013, claimed tax relief in this declaration but the employer refused to take this tax relief into account in the annual settlement of tax advances.
- **Filing an ordinary tax return** - if the pensioner did not claim tax relief in the taxpayer's declaration for 2013 and, at the same time, had not already filed an extraordinary tax return for 2013. Despite the late filing of the extraordinary tax return for 2013, no fines and penalties will be imposed.
- **By filing a supplementary tax return** – in cases in which the pensioner has already filed the ordinary tax return for 2013. Again, there are no fines and penalties for filing a supplementary tax return.

## Procedure on the employer's side

If the employee signed the “declaration of the taxpayer liable to personal income tax from dependent activity” in 2013, claimed tax relief per taxpayer in this declaration and the employer carried out the annual settlement of tax advances but did not grant this relief to the employee, the employer is obliged to grant the above-mentioned tax relief to the pensioner now.

The employer shall carry out a tax correction under Sec. 38i (2) of the Income Act tax and file a supplementary tax return concerning the tax relief in question. The next payment of tax advances to the tax authority shall then be reduced by this difference.

Tax correction is possible within three years of the deadline for filing the “statement of income tax from dependent activity” for the 2013 tax period.

**If you are interested, please feel free to contact us: we would be glad to prepare your ordinary or supplementary tax return for 2013 or to clarify the situation with your employer.**

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