Tax and Legal News

May 2024

Building a better working world

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Robot taxation

Last month, a colleague reflected on the accelerating train of international taxation, but that's not the only area that's accelerating. EY launched the latest version of the GenAI platform, EYQ, in early May. It's a smart "robot" that can do research, type, correct text, reply to an email, change style and tone, retrieve large files, spit out a brief extract, compare, analyze data... . All it takes is the right "prompt".

Remember how, in our "tax childhood", we used to run around with binders, always printing and rewriting, underlining with colored markers, spending weeks in data-rooms, downloading and reading tons of documents? The last decade or two of digitization and automation has been like switching from a local train to a bullet train. However, in my opinion the trajectory has now sped up exponentially and the word "acceleration" has taken on a whole new dimension.

The potential of GenAI is huge. I asked my new friend EYQ if he would eventually replace me. In his well-mannered (so far) response, he listed the areas where he's confident (automation of routine tasks, calculations, analysis, monitoring legislative changes) and the areas where he says he can't (yet) replace me (interpretations, conclusions, recommendations, strategic thinking, a "personal touch and trust").

Did you find yourself getting carried away for a moment, envisioning yourself thinking strategically on a beach, cocktail in hand, fleetingly supervising the robot working on the lounge chair beside you, finalizing a VAT return, explaining the reasons for deferred tax movements in quarterly reporting, drafting a response to a call for an audit report, collecting and sorting data for Pillar 2 and preparing a brief summary of the main points of an amendment and the related explanatory report?

Let's just remember to look at the full picture, one in which the tax administration will eventually be similarly equipped. While, logically, there will be a lag between the private and public spheres, the tax administration is also stepping on the gas, both legislatively, in all international initiatives and information exchanges, and in its analytical and control activities. The vast difference in the quality of tax controls today and twenty years ago probably needs no mention. So presumably there will be a robot working on the lounge chair on your other side analyzing your accounting ledger and all your documents and preparing a crisp challenge concerning what it doesn't like and what it would like to assess.

Another area that fascinates me about AI and robots is whether and how they will be taxed. The first in-depth discussions on this topic were held back in 2017. Considerations started with the simple idea of taxing robots as employees, which was primarily based on concerns about the loss of tax

revenue when human labor is replaced by automation. People will need unemployment benefits, robots won't retire or take maternity leave, won't give birth. A fiscal dream. But difficult to implement; we aren't talking about replacement anymore, especially with GenAI, and it wouldn't be quantifiable, anyway.

Other proposals have tried to tax corporations that use AI more. Does this remind you of the sectoral tax, the windfall tax? Also (logically) off the table – all efforts are now sunk into supporting AI and automation, even in the form of subsidies and R&D incentives, so it doesn't resonate back in the form of higher taxation. Some studies also mention the potential for some form of VAT taxation, but only very marginally, as it lacks both logic and implementation potential.

Finally, I asked EYQ how he sees all of this. We mostly agreed. Taxation is tempting, motivated by fiscal needs, but currently counterproductive as the AI field needs to be further developed and invested in. Also, practical implementation will be difficult.

Enjoy the newsletter while the authors of the articles are still human...

Did you also get carried away for a moment, envisioning yourself thinking strategically on a beach, cocktail in hand , fleetingly supervising a robot working on a sun lounger next to you, finalizing a VAT return, explaining the reasons for deferred tax movements in quarterly reporting, drafting a response to a call for an audit report, collecting and sorting data for Pillar 2 and preparing a brief summary of the main points of an amendment and the related explanatory report? Let's just remember to look at the full picture, one in which the tax administration will eventually be similarly equipped.

Amendment

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Clarifying amendment to income tax, special employment contracts and share plans approved by MPs

MPs approved in the 3rd reading a "clarifying" amendment to the Income Tax Act (ITA), as well as additional amendments to the regime of work performance agreements and share/option plans. These are the amendments tabled as part of the Parliamentary Document 570 - i.e. amendments to the Investment Companies Act (HERE). The amendment now goes to the Senate.

Investment funds - valuation differences and nature of liabilities

One of the main topics of this amendment was originally intended to specify the tax treatment of valuation differences and selected liabilities for investment funds. However, this part has somehow "stalled" and is not in the approved version of the amendment.

Further amendments to the ITA concerning the issue of investment funds contained in this amendment are not the subject of this article.

"Clarification" amendment to the ITA

For example, the amendment contains the following:

- *Valuation of the non-cash benefit of the use of a preschool* - In accordance with the announced information of the General Financial Directorate (HERE), a special regime is newly proposed for the valuation of the non-cash income of an employee in the form of the use of a preschool childcare facility (by a family member of the employee) - two options for the valuation of such a benefit are provided, either at the price customary at the place and time for the use of a kindergarten established by the listed public founders (State, region, municipality or voluntary association of municipalities) or at the maximum monthly

payment for the use of such a facility according to Decree No. 14/2005 Coll, on pre-school education (the current monthly amount is CZK 1 512 according to the explanatory memorandum). The choice between these two methods of award is made by the employer. In this case, the employee's non-cash income is calculated as the difference between the valuation amount and the reimbursement paid to the employer. This non-cash income then may be counted towards the limit of exempt income under Section 6(9)(d) of the ITA.

- *Meals for retired former employees* - The new rule is to exempt the income of a former employee who worked for the employer until his/her retirement (or certain disability pension) - namely, income in the form of meals (i.e., non-monetary form) provided by the employer for direct consumption at the employer's workplace or at a facility operated by another entity - up to 70% of the upper limit of the meal allowance.

- *Relief for exemption conditional on the expenditure of income on the acquisition of housing needs* - It is proposed to modify the conditions for the exemption of income conditional on the expenditure of the acquired funds on the acquisition of own housing needs and timely notification to the tax administrator. As regards this notification - it is proposed to transform the substantive condition for the exemption of the income received into a mere notification obligation.

- *Clarification regarding non-cash income from participation in social events of the employer* - It is proposed to amend Section 6(9)(g) of the ITA to provide that non-cash income from participation in given social events organised by the employer, including (but not limited to) those with a cultural or sporting element, is exempt from income tax. Similarly, the link to the provisions of Section 25(1)(h) of the ITA has been modified.

- *Clarification of the exchange rate exclusion regime* - The provisions of Section 23i(3) of the ITA are amended so that when a taxpayer switches to another accounting currency, it ceases to be a taxpayer in the exchange rate exclusion regime - thus, the switch to another accounting currency should result in taxation of the excluded exchange rate differences.

- *Equipment for meeting the needs of employees (Section 25(1)(k))* - The method of calculating the amount by which expenses exceed income, which is not deductible under Section 25(1)(k) of the ITA, is clarified - this calculation does not include those expenses that are already excluded from the tax base under other provisions.

The effectiveness of each of the proposed provisions is defined in a rather complicated way, with some of the provisions expected to be applicable throughout 2024.

Additional modifications to the regime for performance of work agreements (PPAs)

In the case of PPAs, changes to the insurance laws and the ITA are being introduced, which we have reported on HERE and HERE. In particular, these relate to the following areas:

- The introduction of the so-called notified agreement regime - social and health insurance premiums for these PPAs will be paid only if the monthly income reaches at least 25% of the average wage (the average wage for 2024 is CZK 43,967);

- Other ("non-notified") PPAs - the contribution will be assessed according to the general rules for employment (i.e. standard or small-scale employment);

- New withholding tax limits on PPAs - the withholding tax limits will be the same as the limits for premiums under the notified and non-notified arrangements.

The above changes will not take effect until 1 January 2025.

From 1 July 2024, however, all employers with employees on a PPA will still be required to report certain information about these employees to the Social Security Administration, regardless of the amount of their income from the PPA. The employer will have to submit the notification on a prescribed form (the Statement of Contributions) by the 20th of the following month. This new obligation was introduced by the consolidation package and was not changed by Parliamentary Document 570.

Additional modifications to the stock/option plan regime

The amendments concerning the income from employee share/option plans concern the payment of social security and health insurance premiums:

- the premiums will be paid at the same time as personal income tax, i.e. the moment of taxation and the payment of the related premiums will be deferred;
- the assessment base for the payment of insurance premiums will be identical to the tax base (i.e. in the event of a fall in the market value of a share, not only the tax base but also the assessment bases for insurance premiums may be adjusted under certain conditions).

These changes will be effective in the month following the publication of the amendment to the Investment Companies Act in the Collection of Laws. The amendment does not contain any transitional provisions.

If you have any questions about the above topic, please contact the authors of the article or your usual EY team.

MPs approved a *clarifying* amendment to the Income Tax Act (ITA) in the 3rd reading, as well as additional amendments to the regime of special employment contracts and share/option plans.

VAT

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Trust, but verify!

The Court of Justice of the European Union (CJEU) has dealt with the issue of VAT on false documents (case C-442/22). Who should pay the tax: the fraudster or the payer on whose behalf the invoice was issued?

The Polish company P sp. z o.o. (the Company), whose main economic activity is the retail sale of fuel at petrol stations, was charged VAT on false invoices. The invoices were issued by the then employee P.K. on behalf of the Company. The invoices were used by taxpayers to claim a VAT deduction even though they had not purchased any fuel from the Company. The fraud was difficult to detect because the invoices were linked to actual sales to other entities for which there were cash receipts recorded by cash registers, though no actual customers receiving supply. These fictitious invoices were stored on the Company's computer in a different format than the real ones, were marked with the Company's tax identification number and were subsequently issued to other payers without being recorded in the Company's accounting records.

According to Article 203 of the VAT Directive, whoever enters the tax on a document is obliged to pay it. The crux of the dispute was whether the document was issued by (or on behalf of) the Company, making the tax shown on the documents payable by the Company, or whether the document was issued by an employee P.K., who therefore was liable to pay the tax.

The Polish tax administration argued that the Company had not exercised due diligence to prevent the invoices from being issued. The tax administration also saw a problem in the fact that the employee's powers were not precisely defined and that she had the right to issue invoices without the consent of the Company's management. It was also proved that the chairman of the board knew that invoices were issued on the basis of cash documents and should have carried out appropriate checks, which he did not do. Thus, according to the Polish tax administration, the employee could not be regarded as an independent third party.

The CJEU reiterated that any person who includes a value added tax figure on an invoice is liable to pay it, even if no supply has taken place. The CJEU further clarified that the term 'any person' refers not only to taxable persons, but also to non-taxable natural persons. According to the CJEU, the article in question must also be interpreted taking into account whether or not the apparent issuer acted in good faith. In this context, the CJEU states that the employer's manifest negligence and failure to exercise control cannot be regarded as good faith.

Finally, the CJEU ruled that Article 203 of the VAT Directive must be interpreted as meaning that where an employee of a taxable person has misused the employer's data without the employer's knowledge and consent in order to issue a false invoice stating VAT, that employee must be regarded as a person who has misrepresented VAT within the meaning of Article 203, i.e. that employee is liable to pay the VAT stated on the invoice. This does not apply if the employer is found not to have acted with the due care that could reasonably be required in overseeing the employee in question.

The rule of trusting employees but verifying they are properly performing their duties applies here without fail. We will be happy to help you set up internal control mechanisms to avoid such risks.

If you have any questions about the above topic, please contact the authors of the article or your usual EY team.

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Amendment to the Act on Conversions adopted by the Chamber of Deputies

The Chamber of Deputies approved an amendment to the Act on Conversions. The amendment regulates, inter alia, division by spin-off or relocation of a registered office from and to a non-EU Member State.

On 10 April 2024, the Chamber of Deputies approved a government bill on the Conversions Act (the Amendment). The Amendment incorporates into the Czech legal order EU Directive 2019/2121 of 27 November 2019 amending Directive 2017/1132 governing the conditions for cross-border relocation of registered offices, mergers and divisions (the Directive). In the legislative process, the Amendment now awaits consideration by the Senate and subsequent signature by the President of the Republic.

Spin-offs by separation

The amendment introduces a new form of division, the *spin-off by separation*. This type of conversion does not result in the dissolution of the demerged company, but will result in the spin-off of part of the assets of the demerged company (including any rights and obligations under employment law) according to the spin-off project, and their transfer to one or more newly created subsidiaries of the demerged company (known as a spin-off by separation with the formation of a new company) or to an existing subsidiary (or companies) of the demerged company (known as a spin-off by separation via merger).

In contrast to the existing rules, according to which, as a result of the division, the partners or shareholders of the divided company acquire shares in the newly established successor company, the Amendment allows the division of a commercial company to be carried out in such a way that the shares in the newly established successor company are acquired directly by the divided company, and not its partners or shareholders. A spin-off by separation will, by definition, only be possible in the case of companies and not cooperatives.

Relocation from and to a non-EU Member State

The amendment also introduces the possibility of relocating the registered office of a Czech company or cooperative to a non-EU Member State and allows for a change of legal form when relocating the registered office to one recognised by the laws of the target state, without the original legal entity being dissolved and a new one being established.

Similarly, the Amendment allows the relocation of the registered office of a legal entity whose internal relations are governed by the law of a non-EU Member State or which has its registered office, effective head office or principal place of business in a non-EU Member State. Such a relocation of the registered office will be possible without the dissolution of the legal entity and the establishment of a new one, provided that the legal entity in question changes its legal form to a Czech company or cooperative and that its internal legal relations are governed by Czech law after the change of legal form.

Elimination of the obligation to designate a court-appointed expert in the valuation of assets

The Amendment further modifies the process of appointing an expert to value the assets of corporations participating in conversions in cases where the preparation of such a valuation is prescribed by the Act on Conversions, by eliminating the obligation to appoint an expert by the court on the proposal of the person participating in the conversion and introducing the appointment of the expert directly by a decision of the participating company.

Simplified information obligation

The Amendment simplifies the current obligation to publish a notice of the imposition of a conversion project and a notice to creditors in the Commercial Bulletin. According to the new wording of the Act on Conversions, this information will be deposited in the collection of documents of the commercial register of the companies involved, together with the conversion project and a notice to creditors, employees and shareholders. This change administratively simplifies the conversion process. At the same time, conversions resulting from this change will be exempted from the fees associated with publication in the Commercial Bulletin. However, it will still be possible to publish this information on the websites of the companies concerned.

Multiple conversions on one record date

The Amendment also explicitly allows business corporations to participate in multiple conversions with identical decisive dates, which in previous practice some notaries approving a conversion refused. Thus, after the Amendment becomes effective, it will be possible to carry out, for example, a merger of company X by merging with company Y, as a result of which company X will cease to exist, and at the same time a division of company Y by spin-off by merging with company Z, both of which will be carried out with the same decisive date.

In addition, the new Act on Conversions will explicitly state the rule, which was previously derived from practice, that the decisive date for a merger or division cannot be set before the date of incorporation of the company or cooperative involved in the conversion. Currently, the requirement for the existence of the company on the decisive date of the conversion is interpreted in different ways (e.g. by notaries who approve conversions and enter them in the commercial register).

"Lex ČEZ" has been deleted

The much-discussed provisions of § 311(1) and (2), which were intended to allow approval of a conversion by way of a split with an unequal share exchange ratio and a split by way of a spin-off with the termination of the participation of all minority shareholders approved by a 75% majority of the votes of the shareholders present at the general meeting of the listed company being split, were deleted from the Amendment, whereby such a general meeting would be deemed quorate if shareholders holding shares with a nominal or book value exceeding two-thirds of the share capital were present. This regulation was called the *ČEZ lex* because the Government, owning roughly 70% of the shares of ČEZ, a.s., was able to use it to restructure the company.

Conclusion

The Chamber of Deputies approved an Amendment to the Act on Conversions, which implements the Directive and introduces significant changes, such as a new type of spin-off, the possibility of relocating a company's registered office outside the EU and simplification of the process of asset valuation and information obligations. The Amendment also allows for multiple conversions on a single record date and clarifies the rules on the record date of a merger or division. The debated provision known as the ČEZ lex has been removed from the proposal. After approval by the House, it now awaits consideration by the Senate and the signature of the President.

If you would like more detailed information, please contact the authors of the article or other members of EY Law or your usual EY team.

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Judicial window

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Supreme Court on persons who may be perpetrators of a crime and the role of expert reports and expert opinions in proving the absence of intentional culpability

The Supreme Court[1] ruled on a criminal case of non-taxation of the sale of Czech shares by Cypriot tax residents. We wrote about the lower court's decision in Czech here.

Background

Companies incorporated and tax resident in Cyprus (Cypriot companies) sold shares in Czech companies holding real estate.

Income from the sale of a share in a Czech company is generally income from sources within the Czech Republic for tax non-residents. The selling company – a tax non-resident – is generally obliged to register for tax, declare and pay tax in the event of a sale. The Income Tax Act (ITA) does not regulate the method or amount of taxation depending on the nature of the company (real estate, holding, etc.).

Taxation in the Czech Republic may be limited by the Double Taxation Treaty between the Czech Republic and Cyprus (DTT). In Article 13 (Gains on alienation of property), the following is pertinent:

- Paragraph 2 focusing on real estate companies: *"Gains derived by a resident of a Contracting State from the alienation of shares or other rights and interests in a company, a partnership or a trust deriving more than 50% of their value from immovable property situated in the other Contracting State may be taxed in that other State."*

1 Decision No. 7 Tdo 696/2022-7834

- Summary paragraph 5: "*Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.*"

The defendants' arguments and the Municipal Court's conclusions

After the sale of shares in Czech companies holding real estate, the accused failed to register the selling Cypriot companies for Czech corporate income tax and failed to declare and pay the tax. They justified their position on the basis of the wording of the Czech Income Tax Act, which, they claimed, did not contain adequate legal provisions for real estate companies.

The defendants argued that if there is no special regulation for the sale of real estate companies in the Czech Republic (which is then reflected in Article 13[2] of the DTT), then it is not possible to apply the general regulation for the taxation of commercial corporations (which is reflected in Article 13[5] of the DTT).

Neither the Municipal Court nor the Supreme Court accepted the view of the accused in the criminal proceedings. The defendants were found guilty of the crime of evasion of tax, fees and similar compulsory payments and sentenced to 5 years imprisonment each. They were alleged to have committed the offence by deliberately creating a series of commercial transactions for the purpose of selling shares and deliberately failing to ensure that a corporate tax return was filed on behalf of the Cypriot companies and that tax was paid.

Two circumstances interested us:

1) Who was convicted?

The key persons in the present case were two individuals – the beneficial owner of the Cypriot companies and the managing partner of the law firm that provided legal services to the beneficial owner and represented the Cypriot companies.

The defendants argued they could not have made any material business decisions on behalf of the Cypriot companies and therefore could not have been aware of their tax obligations. Even if they had such knowledge, no obligation to file a return arose for that reason.

The Supreme Court concluded that the formal position of a natural person in a legal entity is irrelevant, since the perpetrator of the offence of evasion of tax, fees and similar compulsory payments need not be only the subject of the tax, but anyone who, by their deliberate conduct, causes the statutory tax not to be levied on them or on another entity either at all or not to the extent required by law. According to the Supreme Court, the accused undoubtedly committed such acts.

2) Were the accused hoping to exonerate themselves through expert reports/opinions?

The defendants argued that the described transaction was not subject to Czech income tax. According to them, Article 13(2), which allows the disposal of a real estate company to be taxed in both States, was not reflected in the Income Tax Act. As part of the historic amendment to the ITA (Parliamentary Document No. 563/0, item 27), it was proposed to supplement § 22(1)(d) of the ITA with the taxation of income from the transfer of shares in so-called real estate companies, which was to be taxed as income from the sale of separate immovable property. However, this proposed amendment was ultimately not adopted. Therefore, the income from the sale of a real estate company is not income from sources within the Czech Republic and the general regulation that taxes companies domiciled in the Czech Republic does not change this.

The Municipal Court rejected such an interpretation, concluding that in accordance with § 22(1)(h) of the ITA, income from transfers of shares in business corporations having their registered office in the Czech Republic is considered to be income from sources within the Czech Republic for non-resident taxpayers. The provision does not distinguish between different types of business corporations. The defendants' argument that if there is no special regulation for a given case (real estate company), the general regulation (applicable to all commercial companies) cannot be applied, cannot be accepted.

In support of their claims, the defendants proposed expert reports and expert opinions which, inter alia, pointed to the existence of different conclusions regarding the taxation of the business transaction under review. In their appeal, the defendants also referred to expert literature supporting the conclusion that Article 13(2) of the DTT cannot be applied in the Czech Republic without its corresponding reflection in national legislation.

With regard to all the proposed expert opinions and expert statements, the Supreme Court summarily stated that the principle of *iura novit curia* (the court knows the law) implies not only that the court does not familiarize itself with the content of legal norms published or registered in the Collection of Laws in evidentiary proceedings, but also the fact that it is not required to take evidence, nor can it be bound by any evidence, in interpreting those standards (Supreme Court judgment of 1 March 1989, Case No. 1 Tzf 7/88, published under No. 53/1989 Coll.). Therefore, according to the Supreme Court, the courts correctly dealt with the preliminary question of whether the commercial transaction under review was subject to taxation in the Czech Republic separately.

The Supreme Court added that, insofar as this evidence was offered to prove the absence of intentional fault on the part of the defendants, or that they had acted in excusable error of law, in this respect the courts made completely different factual findings from the defendants' allegations, indicating their knowledge of the true nature of the entire business transaction (not only about its outwardly presented formal form).

What's the takeaway here?

The article authors interpret the Supreme Court's conclusion as meaning that the accused cannot be protected from the criminality of their actions by a professional opinion or expert opinion pointing to the ambiguity of the regulation, if their knowledge and actual actions indicate an intention to use the structure to evade tax.

If you are interested in this area, please contact the authors of the article or your usual EY team.

The article authors interpret the Supreme Court's conclusion as meaning that the accused cannot be protected from the criminality of their actions by a professional opinion or expert opinion pointing to the ambiguity of the regulation, if their knowledge and actual actions indicate an intention to use the structure to evade tax.

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Supreme Administrative Court on the deductibility of intra-group services on the basis of a monthly lump sum

Below we present another interesting judgment concerning the proof and deductibility of intra-group services (the year 2012 was addressed).

Background

- Foreign companies provided Czech companies in a group with services related to, among other things, accounting and administration, where the remuneration was agreed in the form of a monthly lump sum according to the calculated expected costs.
- The tax administrator asked the recipient to provide evidence and found that an overhead surcharge of 75% of the related wage costs had been applied, i.e. not the actual overhead costs.

View of the tax administrator and the Regional Court

- According to the tax administrator, a lump sum compensation cannot be determined on the basis of an estimate alone without the necessary documents – the calculation for determining the lump sum must, according to the tax administrator, be broken down and supported by documents at any time.
- According to the tax administrator, the company did not prove the full scope of the invoiced activities, but only the part of the invoiced activities that was substantiated by the actual activities carried out, i.e. the part of the total amounts claimed in tax costs corresponding to the overhead surcharge was not recognised as a tax-deductible cost.
- The Municipal Court in Prague sided with the tax administrator.
- According to the court, the negotiation of a lump sum price is not excluded, but it is up to the taxpayer to prove that it was incurred for the purpose of generating, assuring and maintaining income.

- According to the court, the company did not submit any documents in the tax proceedings from which it could be established how it had determined the supplier's overheads and how these costs related to the overhead surcharge.

View of the Supreme Administrative Court

- The Supreme Administrative Court (SAC) disagreed with the view of the Regional Court and the tax administrator and sided with the taxpayer (recipient of the service).
- In the view of the SAC, it is significant that the tax administrator did not claim the service in question was not actually provided, that it did not serve to achieve taxable income or that the price was not paid. However, by means of § 24(1) of the Income Tax Act (ITA), it effectively modulated the amount the extent to which the remuneration paid by the taxpayer to its suppliers can be recognised as a tax-deductible expense, on the grounds that part of this remuneration has been estimated and is therefore not a deductible income expense.
- According to the SAC, the parties to commercial relations are free to negotiate the amount of the remuneration, while the method of determining the overhead surcharge does not in itself indicate whether the service provided could objectively (or at least according to the taxpayer's reasonable expectations) serve to generate taxable income, unless the resulting amount of the price for the service is manifestly disproportionate.
- If the tax administrator believes that the taxpayer has abused the law by claiming the costs as tax-deductible (i.e. that the costs are tax-deductible only formally but not materially), then it would have to prove that the predominant purpose of such conduct was to obtain a tax advantage contrary to the meaning and purpose of the tax legislation. In this case, however, the tax administrator is in fact questioning only part of the claimed costs for the service provided incurred between related parties, to which § 23(7) applies after verification of deductibility under § 24(1) of the ITA.
- The tax administrator did not question the tax deductibility of the costs incurred for the services received as such, but only the amount acceptable in terms of reducing the taxpayer's tax base. The tax administrator therefore effectively adjusted the tax base, but not by comparing the agreed price with the normal price (and allowing the taxpayer to explain the difference), but by questioning the calculation of the agreed price, even though the costs claimed on that basis alone cannot be denied tax effectiveness.

This decision, in our view, illustrates two important points: (i) proving intra-group services is a thorny issue, and (ii) the tax administrator's approach has limits, and the tax administrator must properly consider what "appropriate method of attack" to choose.

If you are interested in this area, please contact the authors of the article or your usual EY team.

The tax administrator effectively adjusted the tax base, but not by comparing the agreed price with the normal price (and allowing the taxpayer to explain the difference), but by questioning the calculation of the agreed price, even though the costs claimed on this basis alone cannot be denied tax deductibility according to the SAC.

For further information please contact either your usual partner or manager.

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Did You know:

- The General Financial Directorate published on its website an updated opinion of the Czech Statistical Office on the issue of the classification of certain economic activities according to the CZ-NACE classification for the purposes of windfall profits tax?
- The Tax Administration has published information on the Double Taxation Treaty with Russia?
- An initial draft of the amendment to the Act on Top-up Taxes has been sent for comments?
- An extensive VAT Act amendment has advanced to the next stage?