# Tax and Legal News

June 2025

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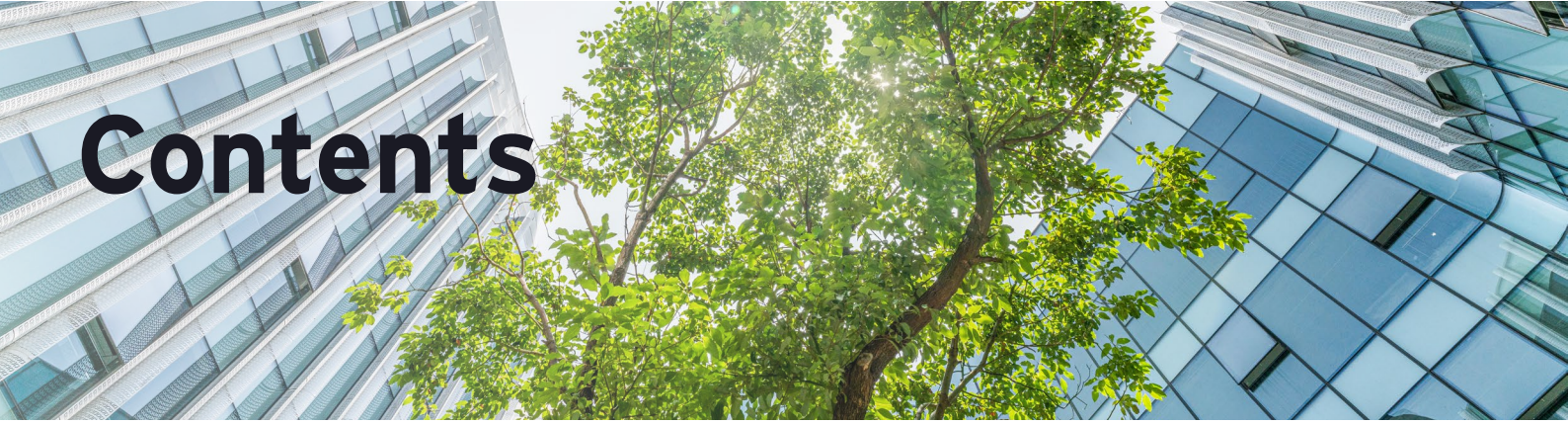

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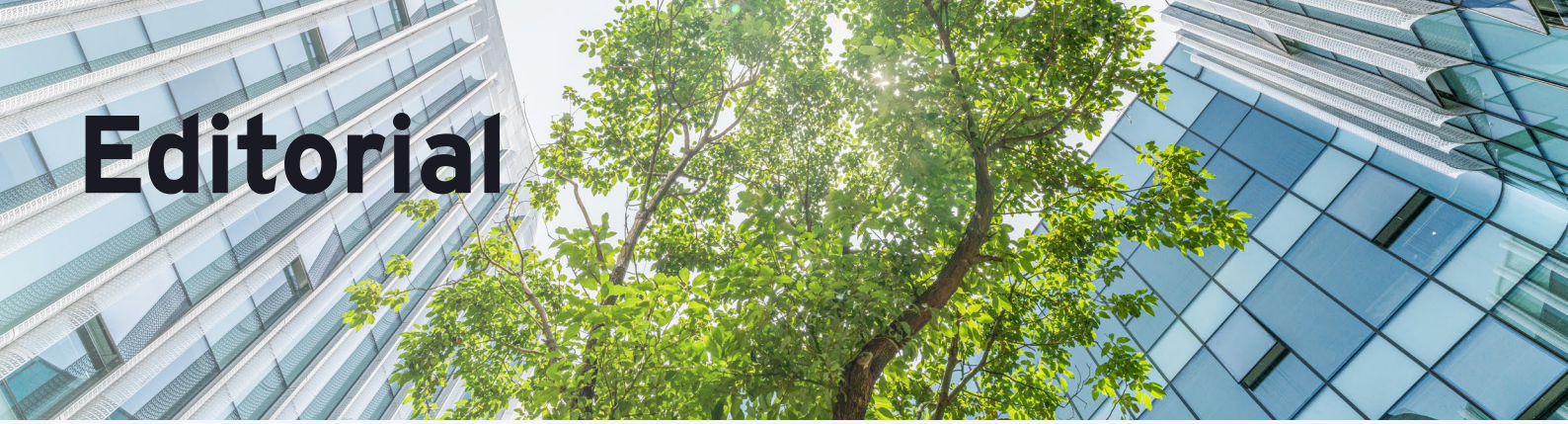

# Editorial

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## Constitutional Court puts an end to crown bonds and sends a signal to taxpayers

On 5 May 2025, the Constitutional Court dismissed a complaint in a case concerning crown bonds (I.ÚS 2693/23). The decision appears to have put an end to such cases, and perhaps sent a signal regarding future assessments of tax optimisation.

The story of crown bonds began in 2011. The Czech Republic took advantage of a long-standing rounding provision and issued a series of bonds with a nominal value of CZK 1. However, it was not possible to buy just one; the purchase minimum was a thousand. Thanks to rounding, individuals did not have to pay tax on interest income from the bonds, which sold like hot cakes. The Deputy Minister of Finance described the issue as a legal tax optimization option that had long existed. The State obviously could not deny the need to finance itself through debt and to use the funds obtained for legitimate purposes. Hundreds of private issuers subsequently replicated the issue using the rounding provision in both fortunate and less fortunate circumstances. Many of them ended up with a tax assessment concluding that they had abused the law. With effect from 2013, legislators changed the rounding rules. And from 2020, lawmakers abolished favourable rounding even for the old bonds from 2012.

From today's perspective, there is no point in speculating about individual cases. Instead, it is more useful to think about the future impact. The way in which the complaint was dealt with suggests that the Constitutional Court may have wanted to send a message about future planning.

The Court did not dismiss the complaint as manifestly unfounded, as is common in tax matters (after all, it is an exceptional means of defence), but ordered that it be heard, which led some colleagues on social media to anticipate a fundamental change. However, during the hearing, the Constitutional Court dismissed the constitutional complaint.

The following passages from the decision strike us as key:

- The complainant argued that, under Article 11(5) of the Charter, taxes and fees may only be imposed on the basis of law, concluding that retroactive tax liability was impermissible. She pointed out the vagueness of the law and noted that, in accordance with established case law, it should be interpreted in her favour in cases of doubt (the principle of *in dubio mitius*).

- The Constitutional Court responded by criticizing the case law for its inconsistent and incorrect application of the principle of *in dubio mitius*. In its view, the vagueness of the law and the possibility of a different interpretation are not, in themselves, grounds for giving preference to an interpretation that is more favourable to the taxpayer.

The aforementioned principle should only be taken into account in situations where there are fundamental doubts about interpretation.

- The complainant further noted that the issuance of crown bonds was a legitimate legal optimization that should be protected by the principles of legal certainty, the protection of legitimate expectations, and good faith.
- However, the Constitutional Court concluded that the context did not provide the complainant with sufficiently strong (justified) confidence in the law and therefore did not prevent the authorities applying the law from enforcing the prohibition of abuse of rights – whether its application meant supplementing the law or interpreting it in a narrower sense.
- According to the Constitutional Court, it is important for assessing the complainant's faith in the law that exceptions to general taxation principles must be based on proper justification with regard to the principle of equality. According to the Court, tax relief is, after all, the economic equivalent of a subsidy.
- It is undoubtedly a matter for the State to grant fewer advantages to one group than to another. However, even here it cannot act arbitrarily. It must demonstrate that it is acting in the public interest and for the public good. The criteria on which such justification is based must be objective, specifically for the area in question.
- When assessing faith in the law, the interpreter of the law should proceed from the understanding that the legislator rationally pursues the public interest.

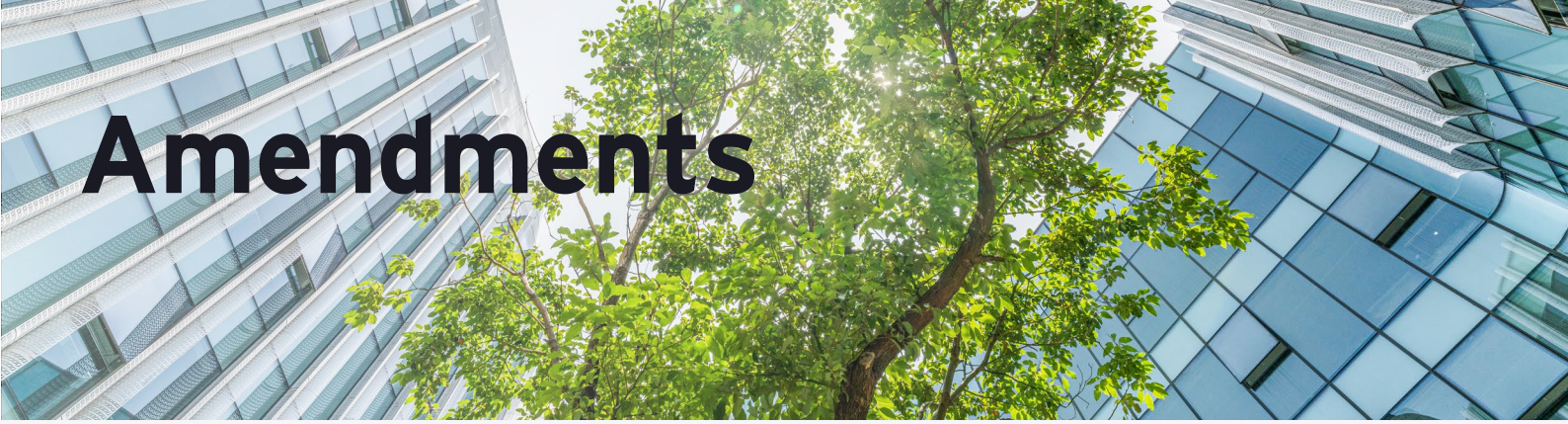
In simple terms, the Constitutional Court states that tax advantages (in this case, advantageous rounding) constitute an exception to equal treatment. They are equivalent to subsidies and must be objectively justified. When applying tax optimization, taxpayers should take into account that the legislator intended tax advantages to be in the public interest.

Constitutional Court interpretations may evolve over time. American legal realism posits that the application of law is based not only on the interpretation of the text itself, but also on socio-economic reality. The consequences of the adopted interpretation for society and the economy, or even the attitudes and views of individual judges, are taken into account.

It is therefore possible that courts will view similar situations and cases differently in the future. Perhaps they will place greater emphasis on the responsibility of the legislator (when it came to changing the taxation regime for old bonds, why did this happen in 2020 and not in 2013?). Or, in a different context, they will perceive the relationship between the restriction of private property and the need to finance the state differently.

Nonetheless, today's perspective is that tax planning must be based on the paradigms mentioned above.

**When assessing faith in the law, according to the Constitutional Court, the interpreter of the law should proceed from the understanding that the legislator rationally pursues the public interest.**



# Amendments

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## Interesting new amendments proposed

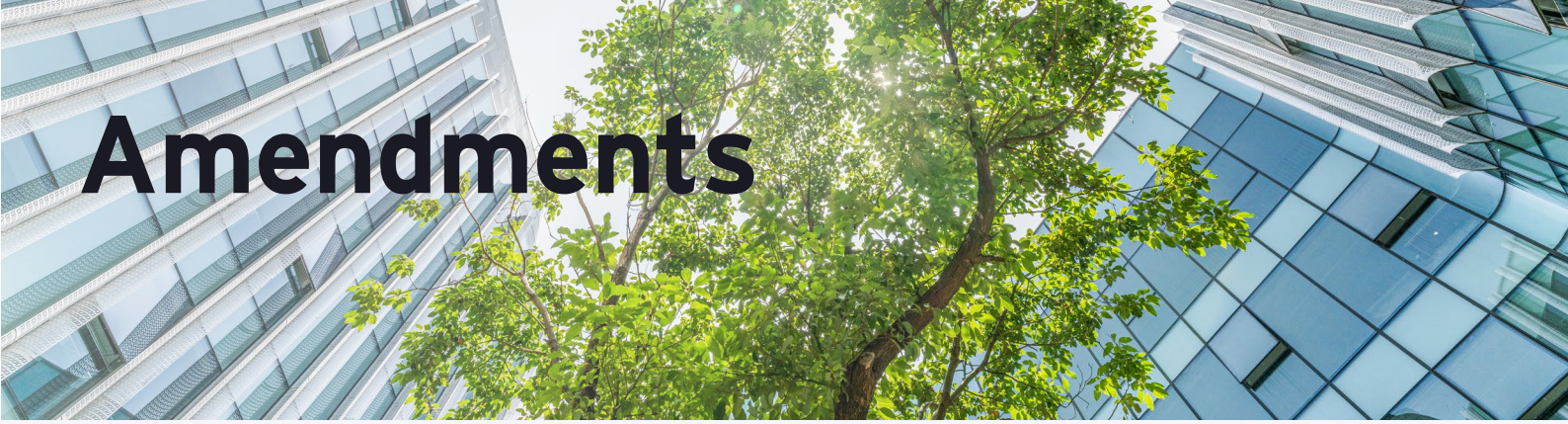
During discussion of Chamber of Deputies Document 926 concerning the unified monthly employer report, several amendments were proposed.

Below is a brief overview of selected interesting proposals put forward by SPOLU coalition deputies:

- the 40-million ceiling for the exemption of personal income from the sale of securities / shares / cryptocurrencies to be abolished starting next year;
- adjustments to research and development deductions (e.g. increased 150% deduction up to a limit of CZK 50 million);
- adjustment of the employee stock and option plan (ESOP) regime – both parametric adjustments to the existing scheme (e.g. postponing the latest date for taxation from 10 to 15 years) and a proposal for a completely new scheme for selected companies (transferring taxation from § 6 to § 10);
- valourisation of the limit for "non-material" receivables, for which a one-time 100% provision can be created, from CZK 30,000 to CZK 50,000;
- adjustment of the exemption of employee benefits regulated in § 6(9)(d) in the sense that it will now explicitly have to be a performance that *"are not wages, salary, remuneration, compensation for lost income, or any other payment related to work performance"*.

We will certainly keep you informed about further developments.

**Starting next year, there is a proposal to abolish the 40 million ceiling for the exemption of personal income from the sale of securities / shares / cryptocurrencies.**



# Amendments

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## Tax Code amendment heads to the Senate

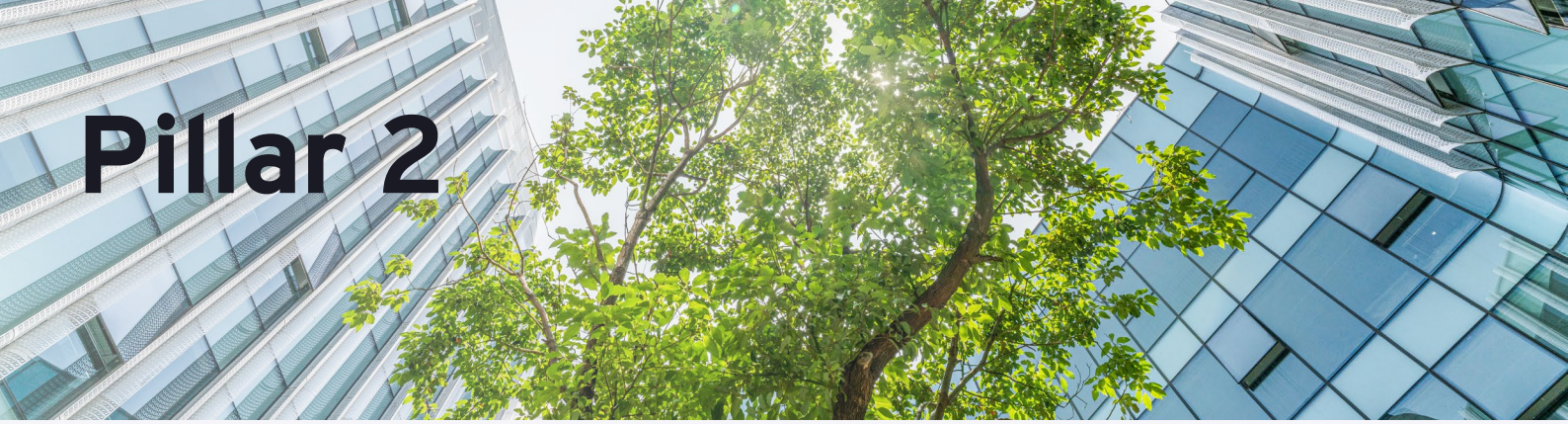
A Tax Code amendment was recently approved by the Chamber of Deputies and subsequently forwarded for Senate approval.

The amendment brings a number of adjustments to the current rules. From our perspective, these are not conceptually groundbreaking changes, but in some specific aspects, they are certainly worth noting. Below is a brief selection of those that caught our attention the most:

- Breaking the statute of limitations for tax assessment even in the case of a criminal offense committed by a person other than the relevant tax entity.
- Allowing the tax authorities to issue a call to the guarantor within the tax payment deadline, not only within the tax assessment deadline.
- New regulation of the transfer of tax liability upon the dissolution of a trust (the person who received assets from the trust is responsible for fulfilling the payment obligations of the trust, up to the amount of the received assets).
- Explicit prohibition of interest on interest, even those paid by the tax authorities.
- Clarification that the basis for calculating the penalty for late submission of a tax return is the amount of tax determined in the proceeding directly related to the late submission of the tax return.
- Possibility of complete remission of tax penalty (currently limited to 75%). At the same time, a new reason for tax penalty remission is to be introduced, namely to prevent double punishment if the penalty arose after the final court decision imposing a criminal sentence on the tax entity for a tax-related criminal offense.
- Limiting the consideration of overpayments in the calculation of late payment interest only to those recorded by the subject-matter competent tax authority.
- Changes in the regulation of mass tax remission (newly by government regulation and allowing mass tax deferral).
- Further changes in the rules for delivery, divided administration, tax execution, and form submissions.

The bill will now be discussed by the Senate. Therefore, further amendments to the proposal cannot be ruled out. If there are no delays, most points of the amendment should come into effect on July 1, 2025. The remaining changes should come into effect on January 1, 2026 (e.g., new regulation for form submissions and for the transfer of tax liabilities upon the dissolution of a trust).

# Pillar 2



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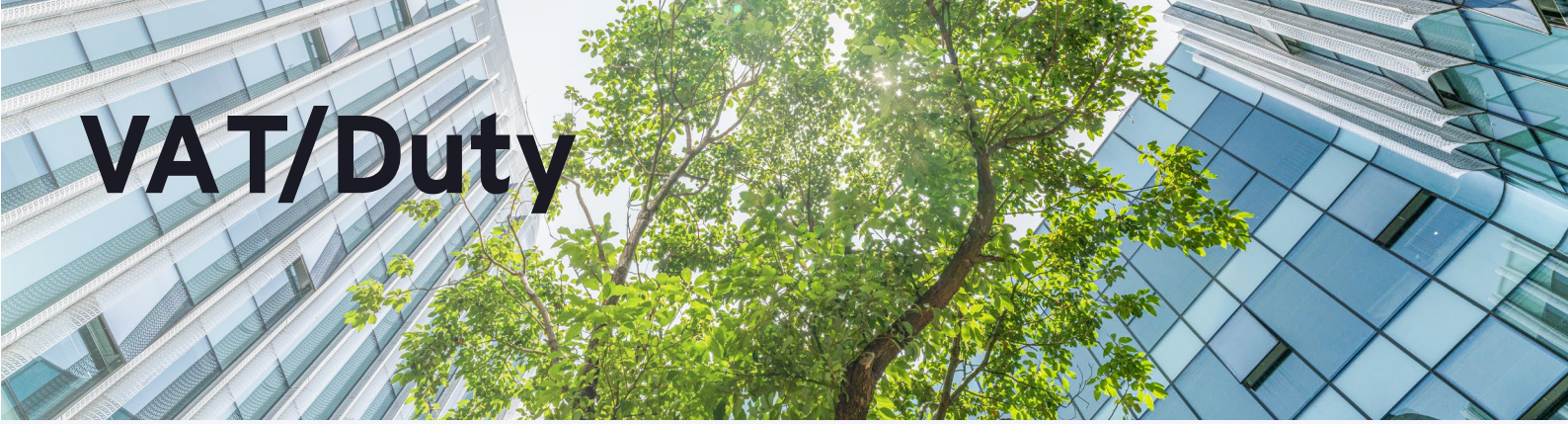
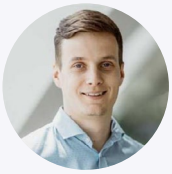
## Selected interesting observations on the practical application of the Pillar 2 rules

We recently organized a seminar focusing on practical examples in the area of applying Pillar 2 rules. Below we summarize selected interesting observations/aspects.

- *Amendment* – An amendment to the law on top-up taxes, which includes, among other things, an extension of deadlines for selected filings, has long been awaiting discussion in the Chamber of Deputies and it finally happened. This development gives us a glimmer of hope that the threat of an extremely short 10-month deadline for filing Czech top-up tax returns will be averted.
- *Dividends/capital gains* – The same rules do not apply to dividends and capital gains under the full rules vs. CbCR safe harbours. For example, exempt gains from the sale of a participation may negatively affect the calculation of CbCR safe harbours.
- *M&A* – Pillar 2 issues bring significant additional complexity from the perspective of mergers and acquisitions. In this context, groups should update their internal processes and transaction documentation.
- *Financing* – Pillar 2 introduces additional limitations in the area of intra-group financing. This may affect not only complex hybrid structures, but also, under certain circumstances, "simple" loss-making companies providing financing within the group.
- *Tax changes* – The same rules do not apply to tax changes under full rules vs. CbCR safe harbours. An error in tax accrual or a supplementary tax return may affect the calculation of the effective tax rate.
- *Transfer pricing* – The full rules of Pillar 2 have special rules for transfer pricing adjustments and are not exactly easy reading. Where possible, it is always better to account for the effects of transfer pricing adjustments in the period to which they relate.
- *Testing of deferred tax liabilities* – The expense from deferred tax liabilities used in calculating the effective tax rate is tested for recapture over the following five years in certain situations. In this context, detailed records and ongoing monitoring are necessary.
- *Deferred tax* – The same rules do not apply to deferred taxes under the full rules vs. CbCR safe harbours. Non-recognition of deferred tax assets in the past may therefore negatively affect the current calculation of CbCR safe harbours.



# VAT/Duty



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# CJEU shifts the approach to customs value in subsequent price adjustments after release of goods

The correct determination of the customs value when importing goods into the EU has a direct impact on the amount of customs duty (and, consequently, VAT) paid. It is not uncommon for the price paid by the importer to change after the goods have been released for free circulation. This may be due to the adjustment of transfer prices between related parties after the end of a certain period, but there may also be other reasons, as was the case in Lithuania, which was examined by the Court of Justice of the European Union (CJEU) in its new decision C-782/23 Tauritus.

Unfortunately, the legislation does not provide a clear answer on how to approach these adjustments, so it is necessary to rely on (isolated) case law or other non-binding documents published by the World Customs Organization (WCO) or the European Commission. The CJEU's decision in the Tauritus case may have a significant impact on the determination of customs value in the case of subsequent price adjustments. So what was the case about and how did the CJEU rule?

## The Tauritus case: When the final price is not known at the time of importation

For the purchase of aviation fuel, Tauritus paid its (unrelated) suppliers a provisional price, which was then to be adjusted according to the average market price of fuel and the average exchange rate for the given period. The final price could therefore be higher or lower than the provisional price.

When importing fuel, Tauritus used one of the supplementary methods to determine the customs value, namely the (last) method using all available data in the EU customs territory. The basis for this method was the provisional price. After receiving the final invoices, it requested a correction of the customs declarations, with the exception of 13 declarations for a higher value.

The Lithuanian customs authority used the most commonly used transfer value method to determine the customs value for these declarations and assessed the customs debt. The case was subsequently referred to the CJEU, which was to decide how to determine the customs value in this case.

## What did the CJEU say?

The CJEU primarily confirmed that the transfer value of goods should be the basis for determining customs value. However, in order for it to be used, it is necessary that the (final) price not be based on a condition or payment whose amount cannot be determined in relation to the goods being valued. In other words, the contract between the importer and its supplier must at least set out objective criteria that cannot be further influenced by the contracting parties and on the basis of which the final price is determined.

The CJEU concluded that this condition was met and that the final price could therefore be determined at the time the purchase contract was concluded. According to the CJEU, the importer should correctly proceed by submitting a simplified (i.e. incomplete) customs declaration with a provisional price and then supplementing this declaration when the final price is determined. However, this simplified procedure should be approved in advance by the customs office.

In this regard, it is worth noting that the transfer value is used to determine the customs value of an estimated 95% of imports into the EU (probably even more in the Czech Republic), but it cannot be used, for example, in the case of gratuitous transactions or transactions between related parties where the importer is unable to prove that its relationship with the supplier did not influence the price.

The need to use one of the alternative (supplementary) methods of determining customs value may cause complications for importers, among other things because it effectively precludes the use of simplified import procedures. The customs office decides which specific method to use. The case law of the CJEU concerning the use of a specific alternative method does not provide much legal certainty either, so finding the right price (other than the transaction price) can be a complex task.

## Price adjustments between related parties

As already mentioned, customs regulations do not preclude the determination of customs value based on the transfer value method even between related parties, but the price of the goods must not be influenced by their relationship. In trade between related parties, it is even more important that prices may be adjusted after the goods have been released. However, the approach of individual customs administrations to these adjustments varies, and even the (unfortunately only) CJEU decision on this issue in the Hamamatsu case (C-529/16) has not led to the harmonization of rules.

As a reminder, the CJEU ruled that EU customs law does not allow the customs value to be based on the transfer value consisting of the invoiced amount and subsequent adjustments if, at the time of release of the goods, it is not clear whether the adjustment will lead to an increase or decrease in the invoiced amount. Unfortunately, it is still not entirely clear how the CJEU's conclusions can be applied in practice.

The CJEU apparently sees a difference between the Hamamatsu and Tauritus cases in that the Hamamatsu case concerned the adjustment of transfer prices between related parties due to the distribution of profits based on criteria defined by the parent company, while in the Tauritus case, the price adjustment depended on objective circumstances that were predetermined and beyond the control of the contracting parties.

## Will the CJEU have to revisit the rules on the impact of price adjustments on customs value?

Most likely, yes. Although the CJEU ruling certainly brings a new perspective on how to approach price adjustments after the release of goods, the question remains whether the objective criteria mentioned by the CJEU in the Tauritus case can also be considered, for example, transfer pricing methods that determine remuneration according to predetermined principles and ratios (based, for example, on reference data on independent entities).

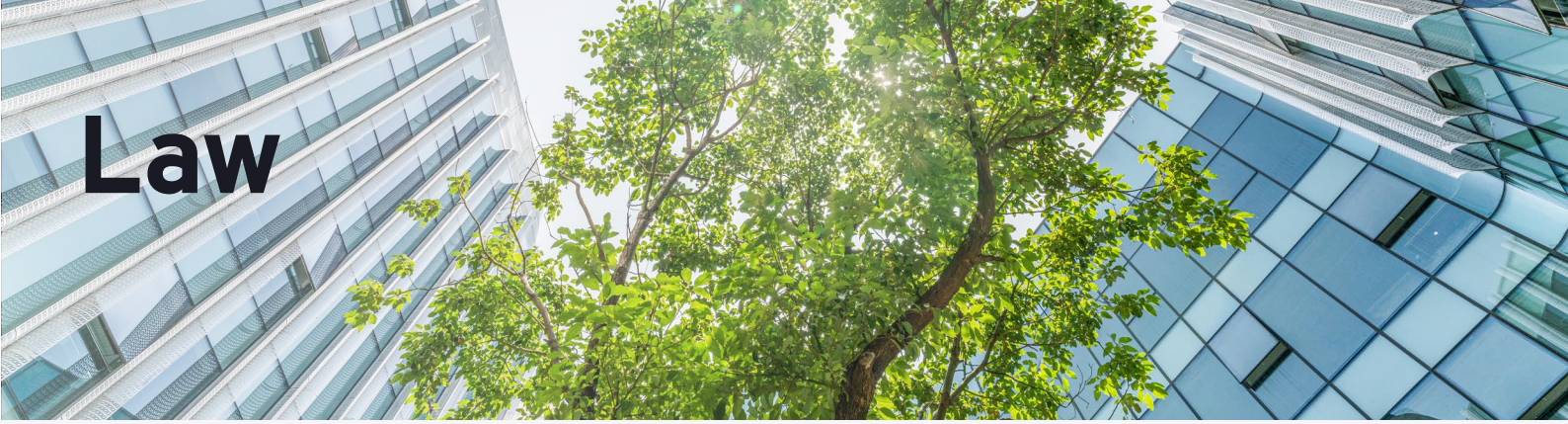
It will therefore be important to monitor whether and how customs administrations in individual EU Member States or, where applicable, the European Commission itself will respond to the decision.

In addition to monitoring further developments, importers are advised to:

- verify whether subsequent price adjustments occur after the release of goods, and if so, how these adjustments are taken into account;
- ensure that they proceed in accordance with customs legislation when determining the customs value of goods imported from related parties.

In view of the CJEU's decisions in the Hamamatsu and Tauritus cases, it is clear that there is no universal solution when taking into account price adjustments after the release of goods, and the optimal approach will have to be chosen with regard to the circumstances and possible risks (or, conversely, opportunities – especially where the customs office does not currently allow for price reductions after the release of goods) of the specific case.

**Although the CJEU ruling certainly brings a new perspective on how to approach price adjustments after the release of goods, the question remains whether the objective criteria mentioned by the CJEU in the Tauritus case can also be considered, for example, transfer pricing methods that determine remuneration according to predetermined principles and ratios.**



# Law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# Sustainability and OMNIBUS - can companies stop worrying about liability under the Due Diligence Directive on Sustainability?

After laborious and lengthy negotiations on a compromise regarding the regulation of due diligence by companies in the area of sustainability, the Commission presented the so-called OMNIBUS package, which aims to mitigate the impact of regulation and maintain the competitiveness of the European market. One of the proposed changes is the reformulation of the rules on corporate responsibility for due diligence in the area of sustainability.

## The road to OMNIBUS

Since the adoption of the Green Deal policy, sustainability and ESG (*environmental, social, governance*) regulation can be considered a key priority for the European Union. The Union aims to be a world leader in sustainability and achieve a zero carbon footprint by 2050. To this end, it has already adopted a number of legislative acts. From the perspective of corporate law, the most significant directives are the CSRD and CSDDD, both intended to ensure that private companies operating in the European market contribute to sustainable development and ecological transition.

The Corporate Sustainability Reporting Directive (CSRD), simply put, introduces an obligation for large companies to publish a sustainability report revealing the extent to which their business operations are sustainable. This is followed by the Corporate Sustainability Due Diligence Directive (CSDDD), which introduces an obligation for large (again, both European and non-European) companies to implement and apply due diligence rules and mechanisms within their chains of activities, i.e. not only within their own operations, but also within their upstream (supplier) and downstream (customer) chains. Compliance with this obligation, or rather the entire catalogue of obligations associated with due diligence, is enforced by both public and private law liability. Both directives will affect companies based within the EU (based on turnover and number of employees) as well as non-European companies that achieve a specified turnover on the European market. The directives therefore have a relatively significant extraterritorial effect and do not distinguish between "domestic" and "foreign" companies when enforcing and imposing sanctions. For companies from Asia or the United States, the EU

is effectively introducing partial obligations that do not usually apply to them to the same extent in their home jurisdictions (an example is the limited scope of the climate-related disclosure rule adopted last year by the US SEC, compared to the scope of the sustainability report under the CSRD).

The CSRD was adopted in October 2022 and was to take effect gradually, with the largest companies already affected from January 1, 2024. The first reporting under the directive was therefore to be published this year. The CSDDD was adopted in May 2024 and was to take effect (also gradually for defined categories of companies) from January 2027.

However, the so-called Draghi report, published in September 2024, showed that enforcing the rules of both directives could significantly undermine the competitiveness of obligated companies on a global scale and thus effectively worsen the stability of the EU market. The European Commission therefore responded promptly and in February this year presented proposals for simplifying regulatory packages, known as OMNIBUS I and OMNIBUS II. Both packages are expected to have an impact not only on the CSRD and CSDDD, but also on other sustainability regulations, such as the EU Taxonomy, ESRS standards, and CBAM.

The first of the aforementioned package concerns the annotated directives. It includes two proposals (see below for the second one). The first proposal, known as "stop-the-clock," postpones the effectiveness of both directives. This proposal was approved surprisingly quickly. Therefore, the new rule is that the first sustainability reports under the CSRD for companies that have not yet reported will not be mandatory until 2028. The effectiveness of the rules under the CSDDD is then postponed until July 2028 and beyond.

The postponement of the rules' entry into force gives the EU time to complete the legislative process for substantive changes to the rules, while also allowing obligated companies to better familiarize themselves with the nature and complexity of sustainability obligations and prepare for them effectively.

## Responsibility for due diligence under the CSDDD

The CSDDD itself imposes an obligation on large companies (both European and non-European companies operating on the European market) to internally implement, apply and monitor internal compliance rules in the area of sustainability, through which the company is to prevent and mitigate adverse impacts on the environment and human rights.

However, mere compliance within one's own operations or within one's own group is not enough. The Directive requires companies to impose similar obligations on their business partners (within their chain of activities). Such enforcement is to be implemented primarily through the application of contractual clauses in supplier-customer contracts or the obligation to suspend or even terminate the business relationship if the adverse effects cannot be eliminated in any other way.

Breaches of due diligence should be sanctioned in two ways. Firstly, the Directive introduces public liability. Designated supervisory authorities should be empowered to impose specific corrective measures, as well as dissuasive, proportionate, and effective sanctions. The current wording of the CSDDD implies that the upper limit for financial penalties should be at least 5% of the company's net global turnover.

In addition to public liability, however, the original wording of the CSDDD also regulates the private liability of obligated companies. Therefore, an obligated company should be liable for damage caused to a natural or legal person if it intentionally or negligently failed to act with due diligence, i.e. failed to take the necessary steps to prevent the adverse impact of its activities or the activities of its business partner on human rights or the environment. It should also be liable for taking any corrective measures. These specific liability rules should take precedence over national law. Therefore, they should also apply in cases where the damage occurred outside the EU (e.g. to a seamstress in Bangladesh or a coffee picker on a plantation in Ethiopia).

Unlike public liability, which in principle (except for its severity or the amount of penalties) does not provoke significant emotions, as it is a common tool for enforcing legal rules, the adopted rules of private law liability raise a number of interpretative ambiguities (especially with regard to their relationship to national tort law rules) and are the subject of extensive criticism. Similarly, the obligations introduced in relation to the content of relations with business partners, and in particular the obligation to terminate a specific business relationship, are criticized as an unreasonable interference with the autonomy of companies' operations and the creation of their own commercial policies.

## Responsibility in light of the OMNIBUS draft bill

In addition to the above-mentioned stop-the-clock proposal, the OMNIBUS I package contains another legislative proposal, namely the substantive proposal for amendments to the CSRD and CSDDD. Its aim is to simplify and clarify the scope of due diligence, thereby reducing compliance costs for obligated companies. This substantive proposal therefore also significantly affects the system of liability for companies exercising due diligence. It reflects critical feedback (both from practice and academia) on the adopted wording of the CSDDD. It therefore appears that, without completely removing responsibility for the company's due diligence in the area of sustainability, it will be curtailed and streamlined.

The substantive bill specifically proposes, among other things, the following:

- mitigation of the due diligence obligation itself, whereby companies would henceforth be required to conduct in-depth checks and risk analyses only on their closest business partners (i.e. partners with whom they have a direct business relationship);
- removal of the obligation for a company to terminate business relations with a business partner if adverse effects cannot be prevented or minimized (however, the possibility of suspending such a relationship or its effectiveness remains unchanged);
- removal of the obligation for Member States to establish a uniform regime of civil liability for breaches of due diligence; these rules are now only to be harmonized in cases where national law allows a company to be held liable for damage caused by a breach of due diligence (however, even this formulation of liability still gives rise to interpretative ambiguities);
- removal of the requirement to set a minimum upper limit for the amount of fines that supervisory authorities are authorized to impose; at the same time, however, Member States are prohibited from capping fines.

The substantive proposal for changes to the CSDDD is currently undergoing the legislative process at the EU level. It is not expected to be adopted as quickly as the stop-the-clock proposal was. Sober estimates suggest that the specific form of the due diligence rules could be adopted in the first half of next year. Companies will then have approximately two years to prepare for the rules to take effect, in particular to amend their own contractual documentation and adopt or update their compliance systems.

We cannot predict the final nature of the duty of care and responsibility for its fulfilment. However, we will monitor the entire legislative process for you on an ongoing basis.

**The substantive proposal for amendments to the CSDDD is currently undergoing the legislative process at the EU level. It is not expected to be adopted as quickly as the stop-the-clock proposal was.**

# Judicial window


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## Decision of the Supreme Administrative Court on advance payments of income tax

What was it about? According to her statement, the Slovak managing director of a Czech company paid Czech employees travel allowances within the limits set by the Labor Code and other income not subject to income tax from her personal Slovak bank account. This transfer was usually preceded by a sufficient transfer of funds from the Czech company itself to this managing director.

The dispute concerned both the exemption of the "reimbursements" paid and the determination of the person responsible for paying the tax, with the assessment of whether the amounts paid should be considered travel allowances or loans not being of fundamental interest and the resulting additional tax assessment coming as no surprise.

**The Supreme Administrative Court does not provide entirely clear reasoning.**

However, the argumentation of the Supreme Administrative Court in relation to the person responsible for paying the additional tax is much more interesting.

The tax administrator assessed an additional tax advance on the income in question of the Czech company, arguing that the company had not proven that the income was not subject to tax. The Regional Court agreed with this conclusion. The Supreme Administrative Court upheld the conclusions of the tax administrator and the Regional Court, but modified the legal argumentation.

The Supreme Administrative Court applied § 6(2) of the Income Tax Act to this case, which first sets out the general rules for who is considered an employee and employer for the purposes of the Act. The next part of the provision is usually applied in cases of so-called international labour leasing.

According to the Supreme Administrative Court *"a broader application corresponding to the wording of the legal norm is, after all, in line with its purpose, which is the need for effective tax collection even in the case of services provided by persons established or residing outside the state of taxation, who are not subject to the jurisdiction of the Czech tax authorities and are therefore very difficult for them to control."*.

While we can agree with the conclusions of the courts in this particular case, the argumentation could perhaps be directed more toward the concealment of the actual state of affairs. In practice, the Czech company sent money to the managing director, who then paid it out. Thus, it was more of a formal adjustment of the physical payment.

At the same time, the argumentation does not contain any statement as to why, for example, the Slovak managing director herself should not be the payer. The law addresses such situations with the concept of a so-called foreign payer, which would help to clarify the court's reasoning.

The Supreme Administrative Court's argumentation in connection with the transfer of the obligation to pay advance payments from a foreign entity to a Czech company for the purpose of effective tax collection appears to be relatively broad and out of keeping with the narrow interpretation used in practice.

The ruling does not contain a more detailed explanation of what is meant by a "contractual relationship," nor does it specifically emphasize the fact that the costs of the payments were actually borne by the Czech company. On the contrary, it emphasizes the effective collection of taxes in relation to foreign entities, where it is clear that the employees of the Czech company performed work only for the Czech company.

Only practice will show whether there is a risk that the conclusion of the Supreme Administrative Court in this case could also be applied to situations where some income is paid directly to Czech employees by a foreign company.

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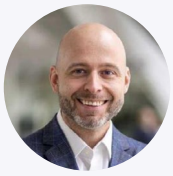
# Judicial window



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## Strict standards for investments in third party assets

The Supreme Administrative Court ruled on a case involving a company that included expenses for the reconstruction of a wastewater treatment plant in its tax costs. However, the plant was not owned by the company.

The company argued that the modification of the treatment plant was necessary for the construction of apartments, which was evidenced by the zoning decision. Without connecting the apartments to the treatment plant, it would not have been possible to complete and sell them. Therefore, the company paid the agreed fee to the owner of the treatment plant.

At first glance, the company's reasoning may appear justified. However, the tax administrator assessed the expense as non-deductible, and the Supreme Administrative Court agreed.

The company was primarily unable to demonstrate the extent to which the reconstruction of the treatment plant was truly necessary for the construction of the specific apartments. The decision also hints at other irregularities, which could be related, among other things, to personnel connections with the owner of the treatment plant.

The judgment also contains several concerning considerations. It states, for example, that the reconstruction of the treatment plant is a technical improvement that can only be depreciated by its owner or tenant. The court rejects depreciation by another person simultaneously with its owner. However, such reasoning fails to reflect the nature of so-called induced investments.

It is also noteworthy that the reconstruction of a third-party wastewater treatment plant was previously accepted as rational by the EU Court of Justice for VAT purposes – albeit in a different case and under other conditions.

### What practical lessons can be drawn?

In investments in third-party property, increased caution is necessary. It is essential to provide not only construction planning decisions but also other legal and economic documentation. Tax authorities and courts are often very strict in these cases.

**When investing in third party assets, increased caution is required. It is necessary to provide not only building planning decisions, but also other legal and economic documentation.**

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**Did you know:**

- at this point, a solution is reportedly being discussed whereby the ATAD3 initiative would be transformed into additional hallmarks regarding economic substance within the DAC6?
- The Constitutional Court ruled on the obligations of the Office for the Protection of Competition prior to conducting a local investigation?
- The Financial Administration has issued information on the obligations of newly registered VAT payers?
- An amendment of the Radio and Television Fees Act changes media fees for businesses?
- The State Labour Inspection Office continues to fight against false self-employment?