



Tax and Legal News

May 2026



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Welcome to the May issue of Tax and Legal News – what’s inside?

Editorial – We take stock and reflect on where the tax system is headed.

Pillar 2 – We highlight selected questions we would ask when assessing the eligibility of the relevant jurisdiction for simplification in the form of a transitional CbCR safe-harbor.

EET – The proposed law on electronic sales records, set to take effect in 2027, is not merely a technical “reincarnation” of the original system. Rather, the new concept introduces changes to the fundamental framework, the scope of entities and activities subject to recording, and defines the roles of intermediaries and other involved parties.

Key changes and impacts in the areas of competition and public procurement – Work is underway on amendments to the Competition Act and the Public Procurement Act.

Beneficial owner – The Italian Supreme Court adopted a restrictive interpretation of the concept of “beneficial owner” and confirmed that participation in cash pooling may influence the decision to deny contractual tax benefits on cross-border dividends.

Labor costs and assessment tools – We present an interesting decision by the Supreme Administrative Court regarding the demonstration of the tax deductibility of payroll expenses incurred under work performance agreements and the conditions for transitioning to tax assessment based on simplification.

What has caught our attention?

- **Investment incentives** – The Ministry of Industry [published](#) the Ministry of Finance’s methodology for evaluating investment incentive applications.
- **Meal allowances for foreign employees on business trips to the Czech Republic** – The [dispute](#) over the amount of meal allowances excluded from taxable income under § 6(7)(a) of the Income Tax Act in the case of foreign employers and their employees on business trips to the Czech Republic remains unresolved.
- **Additional assessment of transfer pricing and subsequent additional assessment of withholding tax** – The transfer pricing issue [continues](#) with a 35% withholding tax assessed as a result of a transfer pricing reassessment.
- **Characteristics of dependent employment** – The Supreme Administrative Court once again [commented](#) on the defining characteristics of dependent employment, this time in the IT sector.
- **ESG reporting** – The Ministry of Finance has published a [draft](#) amendment to the current Accounting Act, which focuses primarily on revising ESG reporting.
- **An interesting take on tax deductibility** – The Supreme Administrative Court recently [addressed](#) the tax deductibility of brokerage fees, and the dispute offers an interesting perspective on the test for tax deductibility.
- **New Accounting Act and accompanying amendment** – According to unofficial reports, the concept of tax value is to be abandoned (for the time being), and all efforts in the area of income tax are reportedly to be focused solely on implementing the changes necessary in connection with changes in accounting.
- **Accounting and the equity method** – The National Accounting Board [issued](#) a new interpretation, I-53, regarding the valuation of securities and equity interests using the equity method in standalone financial statements.

Editorial



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Where are you headed, tax system?

I've been writing editorials in this format for over 15 years. With a little luck, this one might be the 75th. It will certainly be my last EY. Not all of them were entirely successful, so if you're still reading them, thank you very much for your support. I've covered every possible topic here, including grumbling about the law, lawmakers, tax authorities, the Supreme Administrative Court, the OECD, and many others. I've also received a few complaints from some people—some justified, some not—who felt affected.

In the last century, I couldn't imagine how the tax break for expats could ever be eliminated, and yet it was... In this century, I didn't believe anyone would do away with the "debt push-down" scheme, the koruna bond, and the concept of the beneficial owner—and yet they did. So I suppose eventually we'll see taxation on the sale of securities and tax consolidation as well.

The current tax system has grown considerably since 1993; the laws are longer and significantly more complex. That makes sense—the whole world has become more complex. However, while many things are more complex, they're also more user-friendly—and that's the direction the world should be heading in. My car today is orders of magnitude more complex than my first Škoda 105, but it drives much better. My first Atari was undoubtedly much simpler than my iPad today, but I probably wouldn't want to work with it anymore. Similarly, just dealing with tax regulations is becoming more and more of a headache.

Why are we making things harder on ourselves? I still believe that most changes are driven by a desire to make the system fairer, so that everyone pays

their fair share. It may be fairer, but it will never be fair. Taxpayers will always grumble that taxes are unfair. Today, they grumble that they're unfair—and complicated to boot.

Income tax is primarily based on financial results. We have international accounting standards (which are complex in and of themselves) that strive to provide a true and fair view. So why don't we take the true and fair financial results from these standards and simply apply the tax rate to them? Instead, we have to prepare separate national accounts, the purpose of which is to provide (presumably) a more accurate and honest picture. I don't really understand why most countries think their national accounts are more accurate and honest. And even if they were, is it worth the trouble to prepare such accounts? And then I'll run this more accurate and honest financial result through a long list of tax adjustments. Why? Because I want to make my more accurate and honest result even more accurate and honest? And I'll answer that right away: it wouldn't be worth the trouble. So the logical reason is that the government wants to regulate the amount of tax collected. But why not do it with a higher or

lower tax rate? Because a higher rate is more visible and would either drive people into the streets or prompt business owners to relocate their operations? And perhaps taxes are a great tool for encouraging or discouraging certain behaviors among business owners, thereby influencing the market environment without direct intervention. Bans and mandates on how to behave in the market would be a problem; taxes are already a necessary evil by their very nature, so imposing even more of them isn't really a problem. And so it's easier to create a new field of study called "calculation of tax depreciation and allowances," which is so complex that no one is likely to take to the streets over it.

The result of all this complexity surrounding fair and equitable taxation is to ultimately realize that, globally speaking, taxes are actually being paid completely wrong and this needs to be addressed. Ten years ago, there may have been an opportunity to streamline the system and simplify the entire logic of taxation. For example, pay taxes where you have customers and employees. Instead, we'll add another layer of BEPS complexity to plug the holes in the current, sophisticated system. But it's still not enough, and taxes still aren't being paid fairly. So let's solve this simply: BEPS 2.0, and everyone better make sure they pay at least 15%. Simple, great idea. But the implementation. Essentially another layer, even more robust and complex than the entire process of creating the most accurate and honest tax base. Is it even worth it anymore?

I know I'm not entirely objective, and experts who really understand this will tell me that I'm imagining it all like a child imagines war. They're right. My fellow tax advisors won't like me, because this is simply a great business opportunity. But from an outsider's perspective, that's exactly how it looks.

I wish the tax system a bright future, and I hope that you, the readers of our Tax News, will enjoy even smarter and more engaging editorials from my wonderful colleagues.

This is definitely my last editorial. Not all of them were entirely successful, so if you're still reading them, thank you very much for your support.

Pillar 2



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CbCR safe harbor in practice – selected questions regarding qualification assessment

The deadline for filing the country-by-country report is approaching. Taxpayers are hoping that the jurisdictions in question (or at least most of them) will qualify for the simplification provided by the transitional safe harbor rule based on the information contained in the country-by-country report (CbCR safe harbor).

Below are 10 selected questions we would ask ourselves as part of such an assessment:

1. Do we have a country-by-country report (CbCR) prepared on the basis of qualifying financial statements, where the calculations for each member entity are generally based on a single qualifying financial statement and, within a jurisdiction, on the same type of qualifying financial statement?
2. For the purpose of assessing compliance with the effective tax rate requirement, should the simplified included tax be based on the qualified financial statements after deducting taxes that are not covered taxes and uncertain tax positions?
3. Are figures for the parent entity (HQ) and the permanent establishment (PE) reported separately?
4. Are entities that may form a joint venture assessed separately?
5. Is the condition for applying the CbCR safe harbor to investment entities (if applicable) met?
6. Were only the adjustments specifically required by OECD rules made?
7. If the data include a purchase price allocation (PPA), is the condition regarding consistency and goodwill adjustment met?
8. Is there a hybrid arbitrage arrangement? If so, has the CbCR safe-harbor calculation been appropriately adjusted?
9. Do they include data on net unrealized fair value losses arising from changes in fair value?
10. Do I have any "problematic" investment incentives that require an adjustment to the potential deferred tax effect?

We're here to help with anything—feel free to email or call us.

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EET: a return in a new—and for some, uncertain—form

After years, the electronic sales recording system (EET) is making a comeback—this time in a significantly revised form. The draft Act on Electronic Sales Recording, set to take effect in 2027 (known as EET 2.0), is not merely a technical “reincarnation” of the original system. The new concept introduces changes to the basic framework, the scope of entities and activities subject to recording, and defines the role of intermediaries and other involved parties.

An incorrect assessment can pose a significant risk to business owners, particularly in terms of potential liability and impending penalties.

At the same time, it is important to note that the text of the government’s draft bill and the explanatory memorandum have changed since their initial publication on the government’s online repository (VeKLEP), and further changes cannot be ruled out. This uncertainty, too, may be a risk factor for many business owners.

It's not just about the payment, but how it came about

Unlike the original EET, the new proposal is based primarily on the concept of a “contact payment.” This shifts the focus from the form of payment (e.g. cash, card, bank transfer, QR code) to the manner in which the transaction takes place between the parties (through personal contact or at a business location).

In practice, however, the line between contact and contactless payments may not be clear-cut. It is not only the technical parameters of the payment that matter, but also the circumstances under which it is accepted. Thus, the same transaction may, depending on the circumstances, be subject to EET in some cases and completely outside the system in others.

The risk of misclassification increases significantly, particularly with hybrid models—typically involving an online order combined with physical pickup and payment through an intermediary.

Who is actually responsible for recording sales?

To determine correctly who is required to record the transaction, it is first necessary to examine whether the contactless payment involves multiple services provided by different entities, and to which business the relevant revenue accrues and to what extent.

What is key is the recipient's role in relation to the underlying transaction. Specifically, whether:

- it is merely a collection agent,
- it acts on its own behalf but for the benefit of another,
- it acts on behalf of another person for their benefit,
- or the institution of an "authorized representative" is used.

In practice, we often find that contractual provisions do not reflect the actual conduct of the parties involved or do not lead to the intended outcome. The risks thus include not only intentional fraud but also common operational failures, such as unclear liability or differing interpretations of the roles of the entities involved. Liability for penalties will be borne by the party obligated to record the sales (whether by law or by delegation)—not necessarily the party that caused the error.

Intermediaries, partner locations, franchise models

The greatest practical risks arise in situations where the customer pays at the point of delivery of goods or provision of services, but the money is collected by an intermediary other than the supplier of the goods or the provider of the services. Payments received in this manner may involve additional fees for the intermediary or other parties involved.

In practice, this can very easily lead to a situation where each party relies on the other, or conversely, where two entities record the same sales—but with different details.

Therefore, the following groups in particular should be on the lookout:

- logistics and delivery companies,
- pickup and partner locations,
- franchise and agency models,
- marketplaces and platforms,
- credit card and voucher companies.

What companies should be doing right now

We consider it essential to map out payment flows. It is also necessary to assess how the parties involved interact with each other and with the end customer, as well as how collections and the subsequent transfer of payments and commissions are handled. A separate issue is whether certain entities or activities fall under the EET exemptions.

We would be happy to assist you in assessing these areas, including reviewing the contractual documentation and proposing appropriate amendments.

The proposed EET bill places greater demands on the proper legal classification of business models. Scenarios involving multiple stakeholders are particularly risky. The text of the bill and the explanatory memorandum may still change over time. However, we do not expect any significant deviations from the established course.



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Key changes and implications in legislation concerning competition and public procurement

The Office for the Protection of Economic Competition (OPEC) is preparing¹ significant changes to the Czech legislation regarding competition and public procurement. The amendments to the Act on the Protection of Economic Competition and the Act on Public Procurement aim to modernize and streamline regulation, address long-standing market failures and expedite public procurement review processes. The proposals have been submitted for inter-ministerial review and affect both the business environment (including transactions and compliance) and public administration and the implementation of investment projects.

In practice, this represents a combination of two trends. The OPEC is seeking the authority to intervene even in cases where there is a “significant distortion of competition” in a broader, structural sense (e.g. in oligopolistic markets), even without proving a classic violation such as a cartel or abuse of dominance. In the area of public procurement, the long-standing criticism regarding the length of review proceedings and the repeated back-and-forth between different levels of authority—which can hinder the conclusion of contracts and the implementation of projects—is being addressed.

Economic competition: Modernizing and strengthening tools

The proposed amendment is based on the assumption that certain markets may remain “closed” or lack competition in the long term even in the absence of obvious unlawful conduct by individual competitors. In such situations, the OPEC currently lacks effective tools to promote market opening (e.g. removing barriers to entry, increasing transparency or reducing dependence on a single supplier). The amendment therefore supplements the traditional

¹ The draft amendment is available here: <https://odok.gov.cz/portal/veklep/material/ALBDSK7WP8/>

pillars of competition law (enforcement against cartels, abuse of dominance and merger control) with elements of more preventive and “market-oriented” oversight.

The main objective of the amendment to the Act on the Protection of Economic Competition is to strengthen the state’s ability to intervene in cases where market competition is not functioning effectively, while at the same time better focusing the OPEC’s resources on situations that are truly significant from a competition perspective. This is reflected both in the introduction of new tools for addressing structural market problems and in amendments regarding the review of mergers and the liability of natural persons. Key changes include:

- **Launch of a new competition tool:** The OPEC will be empowered to conduct sector-specific investigations and issue general measures aimed at opening up the market to competition, for example by making data available or removing barriers in the form of unfair contract terms.

In practice, it will be crucial that the measures be of a general nature and aim to restore effective competition in the sector in question (e.g. by establishing transparent and non-discriminatory rules for access to key inputs). As a result, the intervention may affect multiple market players simultaneously. For businesses, this means an increased need to monitor sector-specific investigations and actively participate in consultations to comment on proposed measures and minimize disproportionate impacts on their business model.

- **Option to order the sale of part of a business:** This tool will make it possible to address structural market problems that are not caused by specific illegal conduct but prevent new competitors from entering the market.

This option is viewed as a “last resort.” It would typically be considered if less intrusive regulatory measures (e.g. access obligations, standardization, changes to contractual terms) failed to open up the market or remove long-standing barriers to entry. From the perspective of the affected groups, it is therefore important to assess in a timely manner whether their market position and contractual arrangements create structural risks that could lead to interference in the corporate structure.

- **Strengthening managers' personal accountability:** In addition to companies, individuals who participate in cartel agreements will also be subject to penalties, with the option to participate in a leniency program).

For companies, this underscores the importance of having an effective competition compliance program (internal rules governing contact with competitors, rules for participation in trade associations, training for management and sales teams, and internal reporting mechanisms). At the same time, it may become increasingly important to assess early on whether leniency or settlement is appropriate, as potential liability will extend not only to the company but also to specific individuals.

- **Revision of the criteria for merger and acquisition reviews:** The revenue threshold for mandatory reporting of acquisitions is proposed to be raised from 1.5 billion to 2.5 billion crowns, which is intended to reduce the administrative burden for less significant transactions and allow the Office for the Protection of Competition to focus on truly problematic transactions.
- **Implementation of the call-in model:** The OPEC will also be able to review mergers that do not meet the standard turnover thresholds but may pose a significant risk of market restriction, particularly in dynamic sectors such as IT, telecommunications and pharmaceuticals.

From a transactional perspective, this may affect the structure of the conditions for closing the transaction and the timing of the closing. Even in the case of “sub-threshold” acquisitions, there may be a need for a competition analysis and a consideration of whether to seek a preliminary opinion from the OPEC prior to closing the transaction (e.g. as part of pre-notification negotiations). Based on the information available so far, it is expected that the OPEC will be able to review selected transactions even after they have been completed (it would have to initiate a review within six months of the transaction’s completion), which underscores the importance of appropriate contractual safeguards in the transaction documentation.

At the same time, it would make sense to supplement due diligence with a screening for call-in risks in sub-threshold transactions (particularly in dynamic sectors) and to consider pre-notification communication with the OPEC where the impact on competition is uncertain.

The proposed changes are expected to take effect on 1 January 2027. Companies facing higher competition risks should therefore monitor the legislative process and consider initiating internal adjustments and preventive measures as soon as possible—typically updating compliance rules, training management and sales teams and revising internal procedures for transactions (screening for competition risks, establishing communication with the OPEC and incorporating any call-in risk into transaction documentation).

Public procurement: speeding up reviews and improving efficiency

The amendment to the Public Procurement Act aims to speed up reviews and reduce unnecessary delays, which often complicate the implementation of public projects. The primary goal is to reduce the incentive to file appeals “automatically” without substantive justification, to strengthen acceptance of first-instance decisions and to limit the repeated overturning of decisions and the shuffling of cases between courts. Key changes include:

- **Amendments to the bond system for filing motions and appeals:** The security deposit will be divided into two parts—the bidder will pay the larger portion upon submitting the bid (the proposal mentions a 70%/30% split) and the remainder only upon filing an appeal. The bond will be forfeited to the state even if the participant withdraws from the procurement procedure within the specified time after filing an appeal, which is intended to prevent abuse of the rules and the deliberate blocking of the procurement procedure.

The practical impact is twofold: for the petitioner, the pressure to present a high-quality argument increases even at the stage of considering an appeal (since it will entail an additional financial burden), while for the contracting authority, this should lead to a faster “unblocking” of the proceedings in cases where the appeal has no realistic chance of success. At the same time, this reduces the incentive to file an appeal solely for the purpose of delaying the finality of the decision and subsequently withdrawing the appeal in order to recover the bond.

- **Requirement to provide specific grounds for appeals:** Going forward, a detailed statement of grounds will be required at the time the appeal is filed in order to prevent so-called blanket appeals.

This change reinforces the requirement for procedural discipline: a party will no longer be able to file an appeal “in reserve” and then gradually supplement it. Combined with the division of the bond, this is intended to ensure that appeals are filed only where there is a specific legal or factual dispute with the first-instance decision. For suppliers, this also means that they need to have internal coordination (legal, technical and financial) in place so that the appeal can be properly substantiated within the statutory deadline.

- **The authority of the OPEC chair to issue a final decision:** The OPEC chair will be able to issue a final decision without having to repeatedly remand cases to the first-instance proceedings, which is intended to limit repeated overturns of decisions and shorten the duration of proceedings.

Strengthening the principle of appeal means that, in ongoing procurement proceedings, priority should be given to a prompt decision on the merits in the second instance. This can provide the contracting authority with legal certainty more quickly (whether through confirmation, modification or termination of the proceedings), and thus lead to an earlier conclusion of the contract. Conversely, it is becoming increasingly important for petitioners to present all relevant arguments and evidence both at the first instance and on appeal, as the scope for repeatedly remanding decisions back to the first instance is set to narrow.

- **Process digitalization:** The amendment reflects the launch of the OPEC self-service portal, which allows for the electronic submission of proposals and objections using internal forms authenticated through the National Identification and Authentication Point.

In the long term, digitization can also speed up routine procedural communication—particularly through standardized forms, verified submitter identities and more efficient delivery methods. For parties to the proceedings, this also means higher demands on internal workflows (access management, submission verification, handling of data messages) and careful monitoring of deadlines, as electronic tools typically reduce tolerance for formal deficiencies.

- **Acceleration in emergency situations:** The amendment will allow contracts to be concluded more quickly, without time-consuming delays and with certain formal requirements waived in the event of natural disasters and other emergencies.

However, contracting authorities should be aware that invoking “emergency” procedures will require proper justification and documentation of the exceptional circumstances. It is advisable to prepare contingency plans in advance (including predefined procedures and template documents) so that actions can be taken quickly while remaining defensible in the event of a subsequent audit.

- **Further modifications:** The expansion of the scope of objections, the introduction of a court fee of CZK 50,000 for administrative actions and amendments to framework agreements are aimed at making the review of decisions by the OPEC more predictable and efficient.

These changes should result in a more practical and stable public procurement process for both contracting authorities and contractors.

Conclusion

The amendments to the Competition Act and the Public Procurement Act will represent a significant step toward modernizing Czech regulation, responding to the current needs of the market and public administration. The competition law amendment will mark a shift from purely reactive enforcement of violations to broader, preventive action against long-term structural market problems—while also ensuring that merger control is more precisely “targeted” at transactions that would otherwise remain outside the scope of oversight. A key aspect of the amendment to the Public Procurement Act is to expedite reviews and limit procedural tactics that could block procurement procedures, particularly through a combination of a split performance bond, the requirement to provide specific grounds for an appeal and the strengthening of the OPEC chair's appellate decision-making authority.

We recommend that businesses, contracting authorities and suppliers monitor further developments in the legislative process (particularly the resolution of comments and the final wording of the provisions) and prepare an internal implementation plan. In the area of competition law, this will typically involve revising internal procedures

and contract templates, while in public procurement, it will involve establishing procedural steps for rapid responses during reviews and working with the OPEC's electronic tools. Timely preparation can significantly reduce the risk of penalties, procedural delays and transactional uncertainties.

The proposed changes are expected to take effect on 1 January 2027. Companies facing a higher competitive risk should therefore monitor the legislative process and consider implementing internal adjustments and preventive measures as soon as possible—typically updating compliance rules, training management and sales teams and reviewing internal procedures for transactions.

Judicial decisions



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The Italian Supreme Court's strict approach to the beneficial ownership of dividends

The Italian Supreme Court adopted a restrictive interpretation of the term “beneficial owner” and confirmed that participation in cash pooling may influence the decision to deny contractual tax benefits for cross-border dividends.

Subject of the dispute

The Italian Supreme Court upheld the assessment of withholding tax on dividends paid by an Italian company to a Danish sub-holding company. The Italian tax authorities and courts concluded that the Danish company was not the beneficial owner of the dividends and was not entitled to withholding tax exemption under the treaty between Italy and Denmark.

One key factor was that dividends were automatically transferred to a centralized intra-group cash pool, which effectively placed them at the disposal of the ultimate parent entity based in the United States (UPE). Consequently, UPE was identified as the beneficial owner of the dividends, and the court applied withholding tax in accordance with the double taxation treaty between Italy and the United States.

Key findings of the courts

The Supreme Court emphasized that the assessment of beneficial ownership must be based on economic reality, not merely on formal structure. The court applied three basic tests:

- *Substantial business activity test* - According to the court, the recipient of the dividends did not engage in any significant business or holding activities.
- *Dominion test* - According to the court, the company had neither the legal nor the factual ability to dispose of the dividends independently, as they were immediately included in the intra-group cash pooling.
- *Business purpose test* - According to the court, the structure was primarily motivated by tax savings, with UPE effectively handling the management and decision-making, as documented in internal email correspondence.

Based on these criteria, the court concluded that the Danish company acted merely as a conduit entity (for more details, see the [alert](#) from our Italian colleagues).

The point

The ruling signals an increased risk of tax disputes in structures where sub-holding entities have a limited profile, and dividends (as well as interest and royalty payments) effectively flow into an intra-group cash pooling arrangement without these entities having any real ability to dispose of their income independently... And also, be mindful about the content of internal communications.

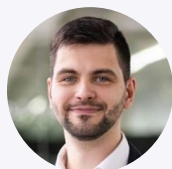
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Judicial decisions



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From doubts to assessment tools - not even labor costs are safe

This time, we present a decision by the Supreme Administrative Court (SAC) regarding the demonstration of the tax deductibility of payroll expenses incurred under work performance agreements (DPP) and the conditions for transitioning to tax assessment based on assessment tools (6 Afs 75/2025 – 57).

Nature of the dispute

During a tax audit, a company was assessed additional corporate income tax based on estimated figures. The issue in question was the payroll costs paid to employees under contract-for-work arrangements, which accounted for a significant portion of the company's total payroll costs.

View of the tax administrator

The tax administrator identified a set of serious and mutually reinforcing doubts, in particular:

- inconsistencies (e.g. two sets of contracts, differences in content, discrepancies with versions submitted by employees),
- discrepancies in the records (e.g. mismatches between hours worked and compensation paid, or the inclusion of employees who did not sign their work performance agreements until the following months),

- an illogical link between labor costs and revenue (or assets) within individual business units.

Doubts arose not only as to whether specific employees had actually performed any work under the work performance agreement and to what extent, but also as to whether they had in fact performed such work for the company.

Based on this, the tax administrator concluded that the tax cannot be determined through evidence and must therefore be assessed using auxiliary methods (simplification assessment tools).

View of the company

Specifically, the company claimed that:

- it met the burden of proof (witness testimony, working time records),
- the tax administrator's individual concerns were minor and isolated,

- the cost center analysis conducted by the tax administrator was irrelevant, as the company does not use cost center accounting,
- expert opinions prepared by experts demonstrate the minimum necessary labor costs,
- the use of assessment tools was excessive and led to disproportionate differences between individual years.

View of the courts

The regional court sided with the tax administrator, emphasizing that the issue was not a matter of assessing individual errors in isolation, but rather their overall cumulative effect, and further that the expert opinions did not demonstrate the minimum necessary costs of a specific taxpayer, but only the usual costs of other entities.

The SAC dismissed the cassation complaint and upheld the findings of the regional court and the tax authorities.

Key observations of the SAC:

- The differences between the work performance agreements were not random; the agreements formed two distinct groups. The company's explanation appears implausible.
- It is irrelevant that only three of the employees contacted submitted different work performance agreements. The issue was not merely differences in specific details that needed to be "corrected," as the company claims. The work performance agreements were fundamentally different.
- Since there was no demonstrable direct link between labor costs and revenues at individual business locations, the analysis—which was conducted entirely justifiably—only served to deepen the tax administrator's doubts. Such an approach does not constitute an impermissible "creation of doubt," but rather a rational economic verification of the taxpayer's claim regarding the link between labor costs and revenues.
- There need not be a direct correlation between revenue and payroll costs. However, this does not alter the fact that a rapid increase in payroll costs relative to revenue raises suspicions and is sufficient to give the tax administrator reasonable grounds to doubt the accuracy of the reported data.

- The significance of the tax administrator's findings regarding the records of working hours and compensation does not lie primarily in the absolute amount of the difference between the compensation paid and the result of the aforementioned calculation, but rather in the fact that they point to the unreliability of the entire record of working hours. Indeed, it is impossible to determine which part of it corresponds to reality, if any. The company's request that the tax authorities simply calculate the correct employee compensation based on the records and determine the tax accordingly is therefore not justified.

- Expert opinions do not demonstrate a company's minimum necessary wage costs, as they do not evaluate any economic parameters specific to the company. Demonstrating the essential costs of a specific taxpayer and determining the usual wage costs of comparable entities are two entirely different categories. A company's tax liability cannot be determined by comparison with third parties.
- For the company, labor costs related to work performance agreements consist of a large number of individual cost items, totaling several million CZK, and represent a not entirely negligible portion of total costs. Furthermore, these labor costs constitute the overwhelming majority of total labor costs. At the same time, the tax administrator acknowledged that labor costs related to work performance agreements must have been incurred to some extent. According to the SAC, this is a case in which even questioning a minor part of the accounting records as a whole can lead to the conclusion that the tax cannot be determined with sufficient accuracy based on the evidence.

What's the takeaway?

If the tax administrator has reasonable grounds for doubt (for example, due to discrepancies between internal records and contractual documentation), this may result in a material additional assessment—even in situations where it is clear that certain expenses must have been incurred. And payroll expenses are clearly not immune either.

Among other things, the court noted that there need not be a direct correlation between revenue and wage costs. However, this does not alter the fact that a rapid increase in wage costs relative to revenue raises suspicions and is sufficient to give the tax administrator reasonable grounds to doubt the accuracy of the reported data.

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