Tax and Legal News

October 2025

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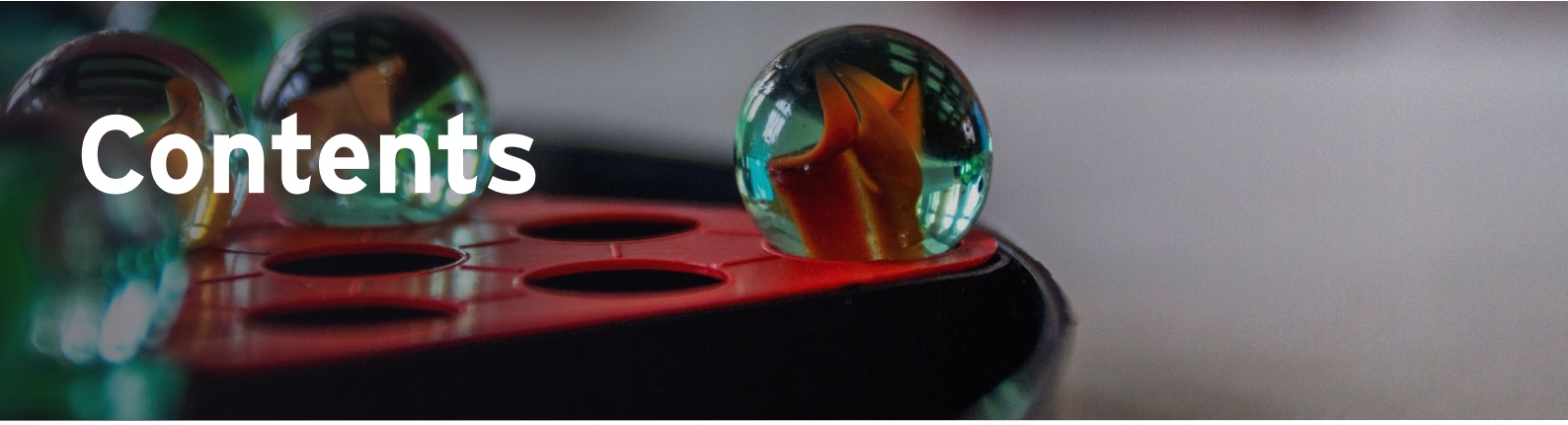

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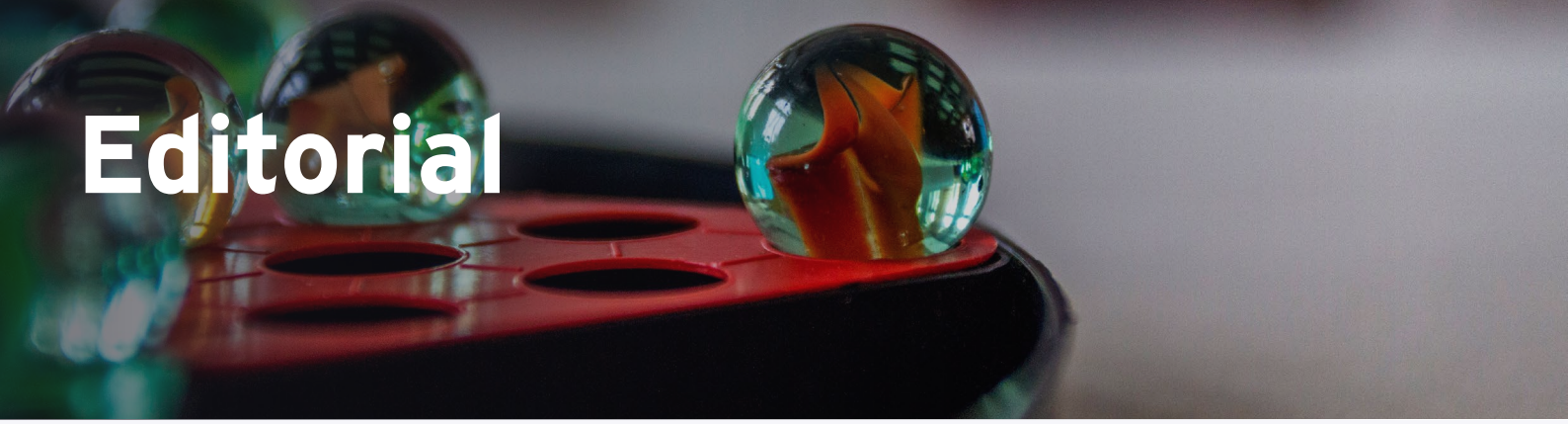

Editorial

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Taxes after the elections?

The domestic event of the week, month, perhaps even year – parliamentary elections. We are deciding the direction our country will take for at least the next four years. Such a decision has many parameters and is influenced by a number of factors. In theory, preparation should include studying the election programs, though I am rather concerned that for part of the population, the marketing effect of the last few days will be the deciding factor.

Some people may use election calculators because they want to vote responsibly but don't have time to study the often complicated election programs. I tried one such calculator. Four of the 25 questions are about taxes. Taxes will therefore clearly be an important part of the election programs and may significantly influence voters' decisions.

In order not to be influenced by the expressiveness and intensity of the descriptions in some election programs, I only looked at the dry facts summarized in our tax news from last month.

Almost everyone wants a single collection point, simplified collection and digitization of the process. Well, we can look forward to that. Interestingly, no one is even trying to simplify tax rules and eliminate exceptions anymore. Perhaps this is because historically, everyone wanted to do so and no one succeeded, and the average voter may not understand what they would gain from it.

Investments in technology, research and development, and artificial intelligence are also popular. Whether it's deductions, incentives, accelerated depreciation, etc. Popular, non-controversial, probably no one will object. Similarly, healthcare, small businesses, retirement savings, etc. appear here and there. The same goes for not introducing new taxes, especially green ones. We will collect taxes from large companies and give relief to individuals (because individuals – not large companies – vote in elections).

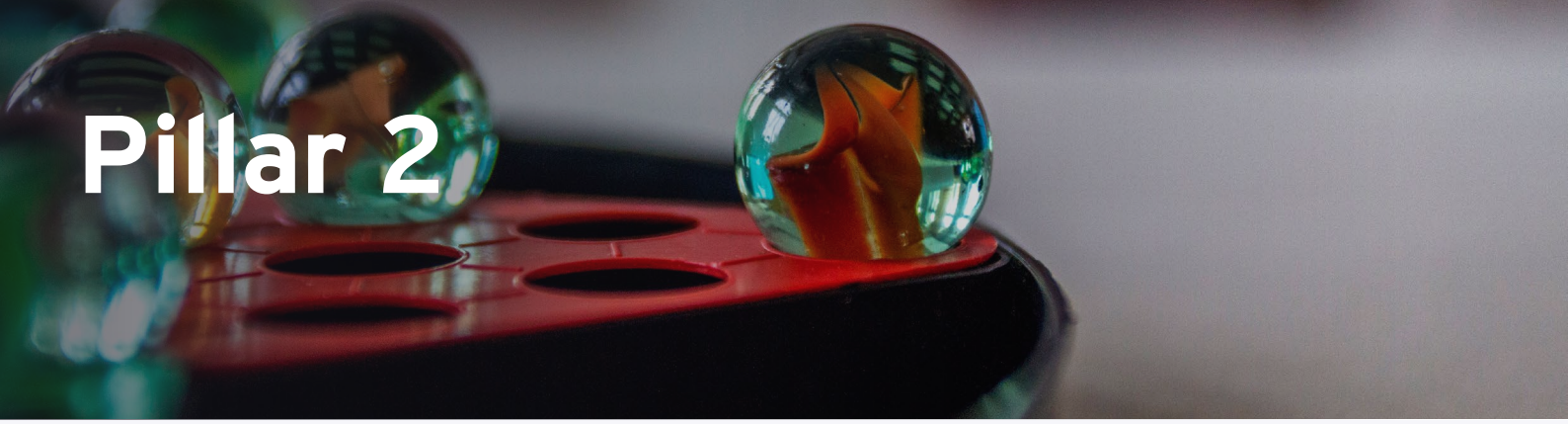
Of course, there are also some very specific proposals. They may have a controversial fiscal impact, not to mention their systemic nature, but their marketing value will be undeniable. I hate to say it, but some of them may be decisive for certain voters.

Exemption of tips in the restaurant industry from taxes and insurance contributions. Renewed proposal to tax digital assets in the same way as shares, i.e. almost not at all. Abolition of VAT on medicines and a reduction on healthy foods and beverages. Liberation of the "false self-employment system." Exempt thirteenth salary. Tax-free allowances for unit commanders and volunteer firefighter engineers.

One possible interpretation is that the average Czech voter is a restaurant worker with lots of bitcoin, working as independent contractor, a fan of healthy eating, who spends their free time as an engineer with the volunteer fire department. The second – and, in my opinion, more likely – interpretation is that we are once again using taxes for something that should be addressed in a completely different way.

This leads me to the grim conclusion that taxes will never be simpler because elections are too frequent and the temptation to use them to achieve other goals is too great. But let's go to the polls with parameters other than taxes in mind.

Almost everyone wants a single collection point, simplified collection and digitization of the process. Well, we can look forward to that. Investments in technology, research and development, and artificial intelligence are also popular. Whether it's deductions, incentives, accelerated depreciation, etc. Popular, non-controversial, probably no one will object.



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Approaching Domestic Top-up Tax Advance Filing and Payment deadline in Hungary

You may have noticed that Hungary has implemented an advance return and payment obligation for the Qualified Domestic Minimum Top-Up Tax (QDMTT).

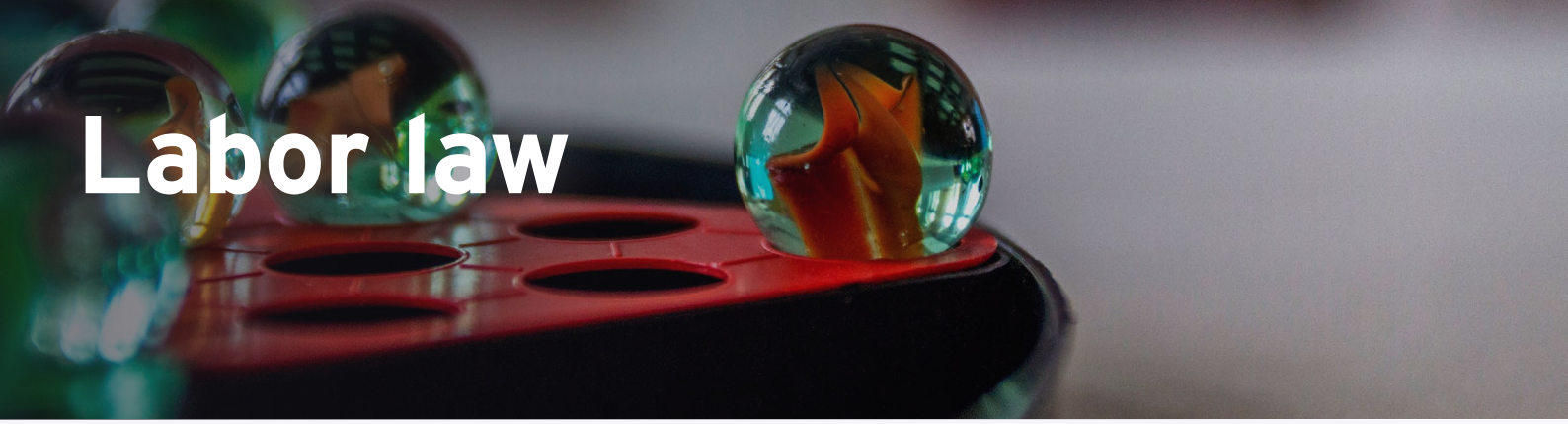
The QDMTT advance return and payment must be completed by the 20th day of the 11th month after the relevant tax year (i.e., November 20, 2025, for 2024 calendar-year tax years).

It is expected that a return must be filed even if the QDMTT liability is nil (including Constituent Entities applying the TCSH rules).

The QDMTT advance return form has not yet been published. Based on informal discussions with the Hungarian Tax Authority, the first draft of the advance return should be released in the next three weeks.

Please contact Karel Hronek in case of further questions.

Hungary has introduced mandatory advance declarations and payments of the expected Hungarian domestic top-up tax. The deadline is approaching.



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Supreme Administrative Court on disguised employment mediation

The Supreme Administrative Court has added to its already extensive case law on disguised employment mediation, once again ruling on the assessment of the actual course of work and its impact on the assessment of whether or not it constitutes disguised employment mediation.

What is disguised employment mediation?

Disguised employment mediation refers to the activity of a legal entity or natural person consisting in the leasing of labor to another legal entity or natural person without complying with the conditions for employment mediation under the Employment Act. Specifically, this refers to a situation where an "employment agency" that does not hold a proper license assigns its employees to a user, i.e. another legal or natural person, for the purpose of performing work. The user then assigns work to these "agency" employees and supervises its performance.

The key element of disguised employment mediation is therefore the absence of a statutory license to mediate employment issued by the Ministry of Labor and Social Affairs. In order to obtain such a license, an employment agency must meet a number of conditions, including securing a responsible representative, obtaining a binding approval from the Ministry of the Interior or depositing a security deposit of CZK 1,000,000.

If an entity without an agency license assigns its employees to a user to perform work, this constitutes an offense under the Employment Act. In such a case, the offense is committed both by the "employment agency" that assigned the employees and by the user who enabled the disguised employment mediation. This offense is punishable by a fine of up to CZK 10,000,000, but no less than CZK 50,000, for both parties involved.

Despite the risk of heavy fines and active monitoring by the State Labor Inspectorate leading to the detection of fake "employment agencies," in practice there are situations where the relatively strict conditions imposed on employment agencies are circumvented by other business models of cooperation, including, for example, contracts for work or framework agreements for the provision of services.

However, when inspecting these business models, the relevant labor inspectorate often concludes that they are in fact disguised employment agencies and imposes a fine. The entities concerned then challenge the fine in court, which very often ends up before the Supreme Administrative Court. This was the case in the situation described below.

Subject of the dispute

The subject of the dispute was whether or not the contract for work and the related sublease agreement, and the handling work in the warehouse provided on the basis thereof, constituted disguised employment mediation.

The supplier and the customer entered into a contract for work and a related sublease agreement. Subsequently, the supplier commenced performance of the agreed work using its four foreign employees and a coordinator who provided information to these employees and managed their work. The work actually consisted of handling goods with a forklift truck during warehousing, assembling pallets, transporting and moving pallets, sorting waste and secondary raw materials and sorting returned goods in the customer's warehouse. The customer ensured these warehousing operations in the same warehouse not only through the supplier's employees, but also through its own permanent employees.

According to the findings of the administrative authorities, the supplier's employees performed routine handling activities in the customer's warehouse, with their specific daily workload and task assignments being determined by the customer's shift supervisors. The customer also provided space, tools, and training for the coordinator and bound the supplier's employees to its rules for performing work. During the course of the provided activity, no specific and separately identifiable results for which the supplier would be responsible were handed over, and its employees did not perform any specific work distinguishable from the activities of the customer's regular employees. The customer only supplemented the current daily shortages of its own workforce with the supplier's employees. They then performed specific work tasks assigned by the customer according to their current needs.

According to the regional court, the actual arrangements and terms of cooperation between the supplier and the customer obscured the true nature of the relationship, i.e. the actual provision of labor at the customer's (user's) workplace without a proper agency license. The supplier did not contribute anything to the contractual relationship with the customer other than the simple performance of work by its employees, and no distinct, identifiable and separable work was created. This was therefore a case of prohibited disguised employment mediation.

The supplier lodged an appeal against the regional court's judgment, arguing in particular that neither the court nor the administrative authorities had considered the nature of the subject matter of the work and its constituent parts, and had, overall, incorrectly assessed the facts of the cooperation arrangement.

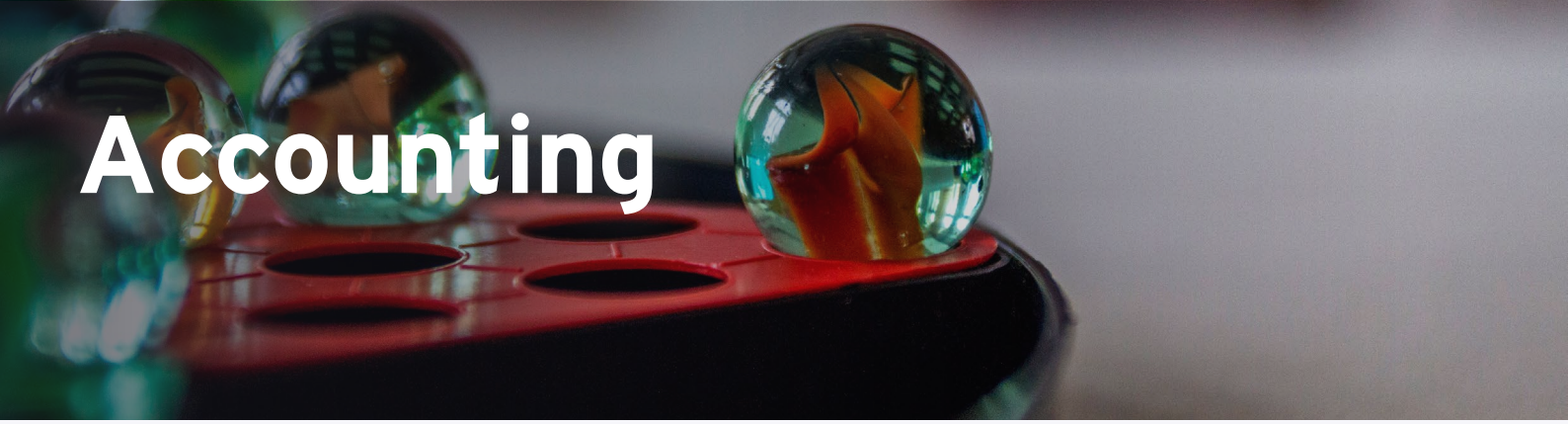
View of the Supreme Administrative Court

The Supreme Administrative Court concluded that the cassation complaint was unfounded and upheld the factual and legal conclusions of the regional court. It pointed out that a typical feature of an offense consisting of disguised employment mediation is the perpetrators' attempt to conceal the true state of affairs through various contractual arrangements. Some facts may be set up in such a way as to suggest that the relationship arose from a contract for work, or at first glance may not fully correspond to the hiring of labor. However, in such cases, the decisive factor is the actual nature of the activities of the supplier's (user's) employees in the overall context of the matter – if the work is organized and managed by the customer, and if the supplier's employees actually supplement the customer's operations and perform repetitive, interchangeable activities, it cannot be considered a contract for work.

The Supreme Administrative Court further concluded that the activities of the supplier's employees cannot be understood as outsourcing, as it follows from the findings of fact and taking into account the nature and activities performed that the removal and storage of goods is an activity that is significant for the customer, without which the customer would not be able to perform its main activity.

In the above-mentioned judgment, the Supreme Administrative Court reiterated that when assessing possible disguised employment mediation, it is not decisive what the contract governing the relationship between the supplier and the customer is called or what the terms and conditions of the work or cooperation provided are set out in this contract. What is always essential is the actual arrangement and functioning of mutual cooperation, from the determination of the work to be performed to the delivery of its results.

According to the court, the decisive factor is the actual nature of the activity in the overall context of the case – if the work is organized and managed by the customer, and if the supplier's employees actually supplement the customer's operations and perform repetitive, interchangeable activities, it cannot be considered a contract.



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Ministry of Finance opinion on changes to limits for categorization and auditing

The Ministry of Finance (MF) has clarified how the limits for categorization and auditing are changing. What does this mean for accounting entities?

MF issued a statement regarding the implementation of the amendment to the Accounting Act concerning changes to the limits for the categorization of accounting entities and for the mandatory audit of financial statements.

Change in Limits for Categorization of Accounting Entities

This change in the law takes effect upon its publication.

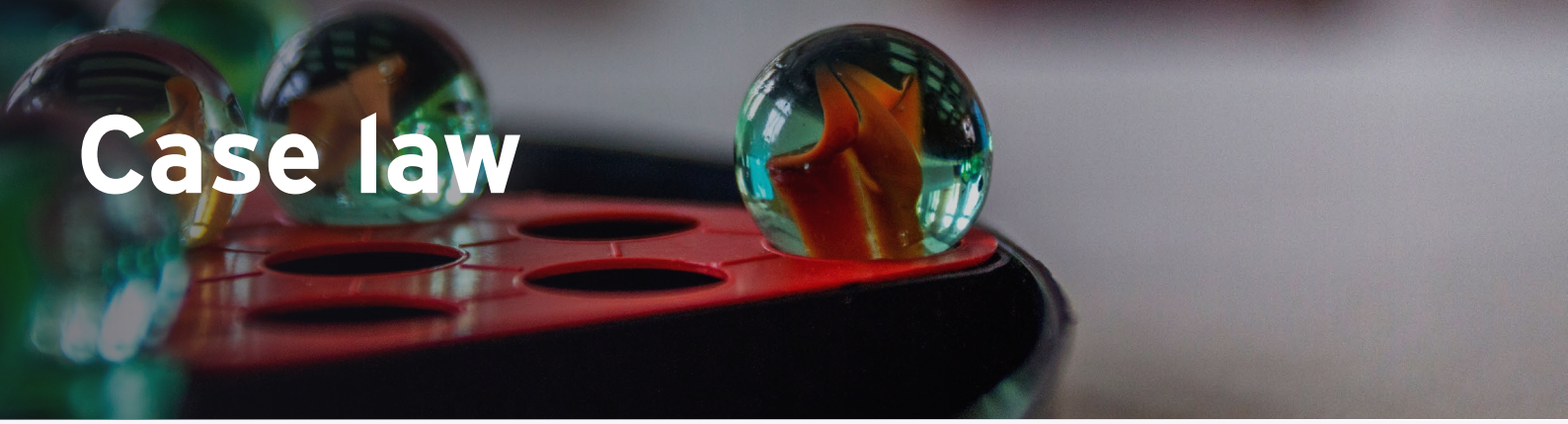
According to the transitional provisions, accounting entities will assess the increased threshold values for the accounting period ending December 31, 2024. Accounting entities with a calendar year accounting period will thus compare the relevant data as of the balance sheet date of December 31, 2023, with the original limits prior to the amendment of the Accounting Act, and the relevant data as of the balance sheet date of December 31, 2024, with the new limits as per the amendment.

Change in Limits for Mandatory Audit

This provision of the amendment takes effect on January 1, 2026.

The obligation to have the financial statements audited by an auditor will no longer apply to small accounting entities. For accounting periods beginning before January 1, 2026, the law as it stood prior to the amendment will apply. Small accounting entities will therefore be required to have their financial statements audited by an auditor, provided they meet the specified conditions, for the accounting period that begins during the year 2025. The audit obligation will cease for them only for accounting periods beginning on or after January 1, 2026.

The Ministry of Finance issued a statement on the application of the amendment to the Accounting Act in the area of changes to the limits for the categorization of accounting entities and for the statutory audit of financial statements.



Case law

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An interesting decision from the Netherlands regarding the (in)defensibility of (intermediate) holding companies

We summarize an interesting court ruling out of the Netherlands concerning dividend payments to (intermediate) holding companies and additional tax assessments due to abuse or artificiality of structure.

Background

- A Belgian company (BelCo1) was owned by two other Belgian companies (BelCo2-3), which were owned by members of one Belgian family (the Family).
- In the year under review (2018), BelCo1 held shares in several companies, including a minority stake in a Dutch company (NLCo1), which acted as a feeder company for a fund of a Dutch private equity entity (NLPE).
- The only asset of NLCo1 was a minority stake in another Dutch company (NLCo2), which held stakes in various portfolio investments.
- The portfolio investments themselves were actually managed by NLPE employees.
- Among other things, members of the Family performed managerial, legal, and administrative work for BelCo1 through BelCo2-3, carrying out these activities from home. BelCo2-3 invoiced BelCo1 a regular management fee, the amount of which depended on the capital invested.
- BelCo1 did not employ any staff.

Nature of the dispute

- In 2018, NLCo1 paid a dividend to BelCo1, and a subsequent dispute arose as to whether this payment should be subject to withholding tax (the tax administrator's view due to alleged abuse/artificiality) or whether an exemption should apply (the taxpayer's view rejecting abuse/artificiality).

View of the courts

- Higher courts (appeal court and later even the Supreme Court) sided with the tax administrator, particularly in view of the following circumstances:
  - the share in NLCo1 was not functionally attributable to the material activities of BelCo1;

- BelCo1 did not interfere with the activities of NLCo1;
- in the absence of its own employees, BelCo1 cannot be said to have any relevant substance – management was not carried out by its own employees, but by employees hired from BelCo2-3;
- BelCo1 decision-making was entirely in the hands of the Family members.

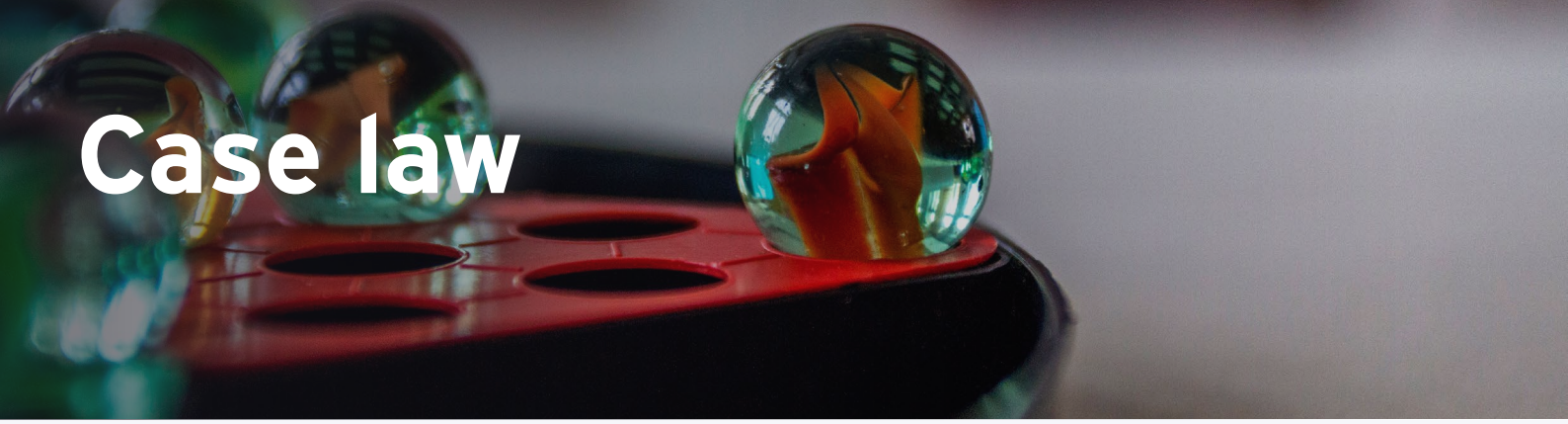
- The court also indicated that these conclusions apply regardless of whether the funds obtained through the dividend in question were distributed further through the structure.

According to the tax administrator, dividend payments to the intermediate holding company were subject to withholding tax due to alleged abuse/artificiality, and the courts ruled in favor of the tax administrator.

What's the takeaway

- Case law on holding structures is not uniform from the perspective of both Czech and international judicial practice. Sometimes the court emphasizes positive arguments, and sometimes it downplays them ("sometimes it wants to see it there, and sometimes it doesn't").

- In this situation, several practical recommendations apply (the more, the better):
  - the (intermediate) holding company should have a distinct function and nexus to the jurisdiction in question;
  - important decisions should be made by its directors/employees in the relevant jurisdiction;
  - the (intermediate) holding has a properly equipped permanent office with staff performing essential functions (employees preferred over outsourced services);
  - preset back-to-back flows are a risk factor;
  - document, document, document.



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Must every second of advertising be documented?

How much detail is required when proving advertising costs during a tax audit? A new ruling by the Supreme Administrative Court provides some clues.

The Supreme Administrative Court, in its ruling 21 Afs 94/2025 – 83, addressed the issue of proving costs related to advertising services. The company had a contract for promotion covering the entire tax period. According to the contract, the advertising services were to include, for example, the display of the logo on LED panels at the stadium during individual matches of the team, the display of the logo in television broadcasts and on player jerseys, among others.

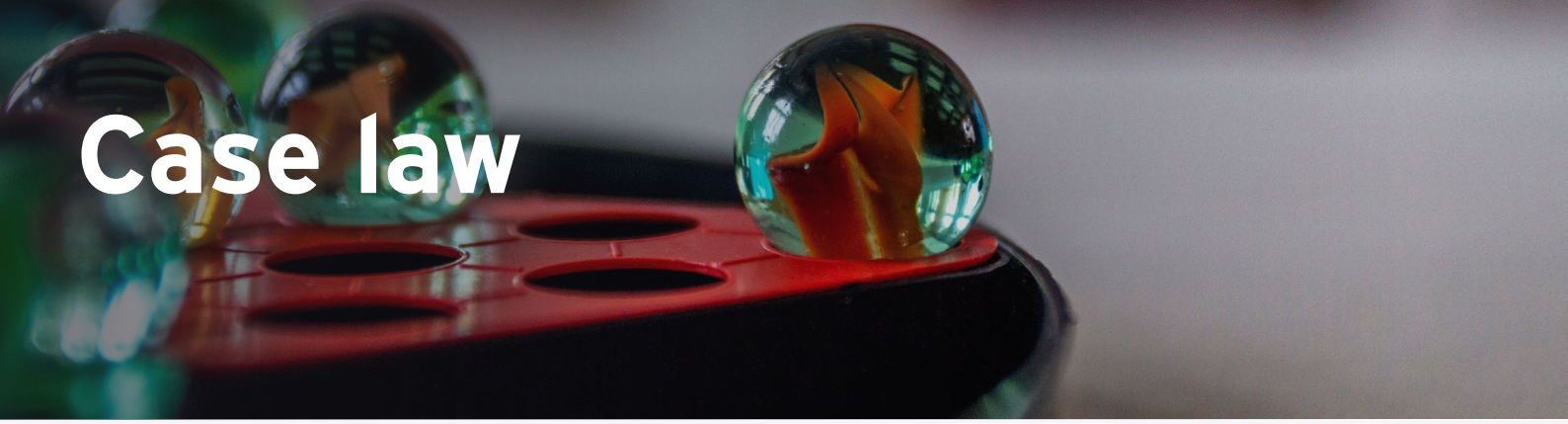
The tax authorities partially reassessed these advertising costs, primarily arguing that the taxpayer failed to prove the provision of all agreed points in full. For instance, the taxpayer proved the display of the logo on LED panels at the playing field for only 17 out of 21 matches, and the tax authorities assessed all points according to the contract in this detailed manner.

The court sided with the taxpayer and confirmed that the taxpayer is required to prove the provision of advertising services only in substantial parameters of the agreed scope and form, and representative samples demonstrating the fulfillment of these substantial parameters are sufficient.

The court also adds that even a potential defective performance by the intermediary, such as the advertisement lasting a few seconds shorter than agreed, does not necessarily affect the tax deductibility of the expenses, as the execution of the advertisement in substantial parameters corresponded to the agreed scope and form.

The ruling confirmed that for each advertising service, emphasis is placed on the taxpayer having transparent documentation available and being able to prove the actual provision of advertising services in substantial parameters.

The court ruled in favor of the taxpayer and confirmed that the taxpayer is only required to prove the provision of advertising services in terms of the essential parameters of the agreed scope.



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Pitfalls of applying the "old" provision of § 24(2)(zc) of the Income Tax Act

Here, we introduce another case concerning the former wording of § 24(2)(zc) of the Income Tax Act (ITA) – the case concerned the year 2014. Case law once again confirms the pitfalls of applying this special provision of the law.

This judgment focuses on the application of a problematic provision of the Income Tax Act, which allows non-deductible costs to be considered tax deductible up to the amount of related income. The judgment is a continuation of a broader set of tax authority audit procedures aimed at verifying the tax liability of a pharmaceutical company for several tax periods. The court's observations in this case may be relevant to us in the application of a similar existing provision in § 23(4)(e) of the Income Tax Act.

What was the last decision about?

The company acts as the group's distribution entity in the Czech Republic, where it imports and distributes pharmaceuticals and also carries out marketing activities to support their sales. Within the supply chain, it purchases pharmaceuticals from the group and supplies them to local distributors, providing marketing services on the basis of a contract that defines the scope of services as advertising, market research, PR activities, informing the professional public and patient education. The remuneration for these services is determined as the sum of the company's direct and indirect operating costs plus a 5% margin.

The company typically treated non-taxable expenses (such as meals above the limit, entertainment, gifts, non-taxable fees and penalties, non-tax-deductible shortages, etc.) as tax-deductible on the grounds that these expenses were directly reflected in the calculation of its income. Unsurprisingly, the tax administrator did not like the company's approach.

The company defended itself with the following arguments:

- The tax administrator did not formulate an interpretation of the term "direct connection".
- There is a direct link between specific costs and revenues, as each cost is reflected in a specific invoice.
- The provision in question was applied only to costs related to marketing services. For other non-taxable costs, even if paid by the parent company, the companies did not claim tax deductibility.
- The application of this provision was not based on the cost-plus method, but on a specific contractual agreement on the price for the services provided.

We believe that the failure to use arguments based on the cost-plus pricing mechanism could have been a response to previous negative Supreme Administrative Court case law (e.g. 1 Afs 190/2021 "Oriflame" or 2 Afs 139/2021 "Sellier & Bellot Trade").

The tax administrator emphasized that their doubts arose primarily because the company had not demonstrated, in accordance with existing case law, a sufficiently strong and direct logical link between the costs in question and specific revenues.

View of the Supreme Administrative Court

Both the regional court and the Supreme Administrative Court ruled in favor of the tax administrator, stating that the company had not proven the legitimacy of deducting these non-taxable expenses from the tax base. In this case, the Supreme Administrative Court saw the same factual situation as in previous judgments (see above) and therefore found no reason to deviate from previous practice.

The Supreme Administrative Court reiterated that a direct link within the meaning of § 24(2)(zc) of the Income Tax Act must be based on a real, not merely accounting or contractual, link between a specific cost and a specific revenue. The direct link between the expense and the income must be assessed in terms of whether the expense is actually related to the income (demonstrably contributed to the achievement of the income) from the perspective of the economic reality of the case.

In conclusion

The current decisions of the Supreme Administrative Court are consistent in this area. When applying the equivalent of this provision in § 23(4)(e) of the Income Tax Act, consider whether you are able to prove a direct link between the costs in question and specific income.

According to the Supreme Administrative Court, a direct link between expenditure and income must be assessed in terms of whether the expenditure is actually related to the income, i.e. whether it demonstrably contributed to attaining income, from the perspective of the economic reality of the case in question.

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Did you know:

- In a recent decision, the Supreme Administrative Court dealt with the issue of fulfilling the conditions for claiming a tax credit for research and development support in an interesting way?
- Special rules apply to companies with tax losses regarding the tax assessment period?
- There are changes for individuals regarding the exemption of income from the sale of securities and shares?
- The ministry of Industry and Trade, together with CzechInvest, the Office of the Government and the Czech Startup Association, prepared an analysis of the Czech startup environment?
- A new double tax treaty has been signed with Malta?
- The Financial Administration has clarified thet new rules for benefits vs. wages in kind?
- The Court of Justice of the European Union has ruled on VAT on profit adjustment between related entities?
- The General Financial Directorate has published an update to the guidelines on the waiver of tax accessories?
- The Data Act has entered into force?