

Tax and Legal News

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Editorial 03

How will this end?

Elections 05

Tax election programs

Pillar 2 10

Pillar amendment approved

Law 11

The EU and sustainable business regulations: should commercial corporations continue to serve the pursuit of profit?

VAT 13

The CJEU confirmed existing interpretation practice in the area of VAT exemption for indirect exports of goods

Tax administration 16

Interesting facts about the activities of the financial administration

Case law

Another decision on an acquisition loan and abuse 18

Is a managing director liable for any tax assessment they have caused? 20



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How will this end?

And they say taxes are boring! Well, maybe sometimes, but there are also cases comparable to a Mexican telenovela or well-written detective story.

What's this about? The exemption of capital gains from the sale of securities by individuals is back on the agenda.

With the holidays behind us, let's look back at the somewhat turbulent developments in this matter.

It is late 2023, and a representative of the Pirate Party (then part of the coalition) submits a proposal to cap the exemption of income from the sale of securities for individuals at CZK 40 million per year, defending the proposal by saying that successful entrepreneurs building family businesses need to be supported, but also taxed appropriately. Otherwise, it would be the poor employees who suffered (again). The second argument put forward is the effort to reduce the number of tax exemptions.

Those who remember may recall this was not the first attempt to abolish this relatively lenient exemption. However, none of the previous attempts was successful. Until this latest one. Why? Unlike its predecessors, it contained a sophisticated provision allowing the market value of shares on the last day before the limitation came into effect to be deducted from taxable income. And to be on the safe side, the effective date of the change was postponed until the beginning of 2025.

The amendment to the bill implementing EU regulations in the area of financial market digitization may, for many, have come as a bolt from the blue. Coalition MPs (with massive support from the Czech Cryptocurrency Association) took advantage of the situation and included an exemption for profits from the sale of crypto assets in the bill (with the same limits as those previously approved for securities). The submitting MP, Mr. Havránek, pointed out that the proposal does not give cryptocurrencies any advantage, but merely puts them on an equal footing with securities. In reality, however (unlike securities), this was in fact an extension of the exemption, because under the previous regulation, all such gains were fully taxed. The proposal was unanimously (!) adopted by all members of parliament across the political spectrum on 6 December 2024. A rather unusual St. Nicholas Day gift, it seems. The idea of reducing the number of tax exemptions was lost somewhere in the confusion.

Less than six months after the above changes came into effect, Finance Minister Stanjura presented a proposal in May 2025, during the second reading of the accompanying amendment to the law on unified monthly employer reporting, to abolish the approved exemption ceilings. And it applies across the board, both to securities and crypto assets. According to the minister's reasoning, no one actually knows how to calculate it (which is somewhat true) and it will also lead to a revival and the removal of barriers to doing business on the capital market (debatable). If you are wondering how the proposal relates to the employer's unified monthly report, the answer is simple. It doesn't. However, this being one of the last opportunities to push something through before the elections, why not give it a try? In the end, the Chamber of Deputies did not adopt the proposal.

But we still have the Senate. In late July, it approved an amendment to repeal the aforementioned cap (once again as part of an accompanying amendment to the law on unified monthly reporting by employers) and sent it back to the Chamber of Deputies for discussion. The reasoning behind this was that many business owners do not have heirs, and when such an unfortunate owner has to sell their business, they face not only administrative but also considerable financial burdens. Unlike Minister Stanjura's proposal, this Senate bill was limited to securities (i.e. did not apply to crypto assets).

So, to summarize: as the Senate bill has just passed, after less than a year we will have the original (unlimited) exemption for securities and a new (limited) exemption for crypto assets.

In any case, it will be interesting to see how it all turns out. Perhaps the creators will heed the enthusiastic responses from viewers and soon embark on another series.

Have a nice late summer and happy reading!

As the Senate bill has just passed, we will return to the original (unlimited) exemption for securities and a new limited exemption for crypto assets after less than a year.

Elections

Tax election programs

As is now traditional, ahead of the elections to the Chamber of Deputies, we bring you a summary of tax points from the political parties' election programs. We summarize these points with minimal editing and without comment, so readers can form their own opinions. The order does not reflect our preferences —they are listed alphabetically.

ANO

General/legal entities

- ▶ We will reduce corporate income tax from 21% to 19%.
- ▶ We will complete the online tax office project, offering a simple and clear tax agenda, that is also accessible via a mobile app.
- ▶ We will simplify tax and administrative conditions and reporting, including reducing and consolidating state controls on businesses.

VAT/excise duties

- ▶ We will standardize VAT on catering services and the serving of non-alcoholic beverages at a rate of 12%.
- ▶ We will absolutely not allow new green taxes on households and personal transport, the so-called ETS2 emission allowances.

Natural persons

- ▶ We will lower taxes for individuals.
- ▶ We will exempt voluntary tips in the restaurant industry from social security and health insurance contributions and income tax.
- ▶ We will return kindergarten fees to families, as well as the original form of the discount for the second spouse, and we will return the tax discount to working students.
- ▶ We will stop further increases in contributions for self-employed persons.
- ▶ We will remove the cap on employees' recreational benefits.
- ▶ Profits from digital assets will be taxed in the same way as shares, i.e. based on a time and value test.
- ▶ We will end tax subsidies for controversial products such as investment life insurance. On the contrary, we will maintain support for building savings and discuss parametric adjustments.

Incentives

- ▶ We will introduce faster and more effective tax depreciation of investments.
- ▶ We will make tax deductions for research and development more attractive. We will increase legal certainty regarding their eligibility.
- ▶ We will focus on incentives in affected regions and declare special economic zones in economically disadvantaged areas, where more favorable conditions for business development will apply.
- ▶ We will support companies and sole traders who create jobs and ensure regional development in the form of tax and subsidy investment incentives.
- ▶ We will create investment incentives and tax breaks for long-term investors in rental housing.
- ▶ Companies will receive tax breaks, investment incentives, and preferential loans for the construction of company apartments for their employees.

More (in Czech) [HERE](#).

Motoristé sobě

General/legal entities

- ▶ We reject across-the-board tax increases and hidden fees that destroy the middle class.
- ▶ We will establish a single collection point combining the collection of income tax, social security and health insurance into one institution. Entrepreneurs can look forward to one form instead of dozens, one payment instead of seven, and one office instead of three.
- ▶ New entrepreneurs will be exempt from taxes and contributions for the first 12 months of their business activity.
- ▶ A moratorium on the introduction of new environmental taxes and fees that reduce the competitiveness of Czech industry vis-à-vis neighboring countries.

VAT/excise duties

- ▶ We are not planning to increase VAT, which would place a further burden on households.

- ▶ We will push for a zero rate on prescription drugs.
- ▶ VAT only on paid invoices, not on issued invoices for companies with an annual turnover of up to CZK 50 million.
- ▶ Shifting the threshold for entering the VAT regime from two to five million crowns.
- ▶ Control reports will only be mandatory for businesses with a turnover exceeding CZK 5,000,000.
- ▶ For seniors, the elimination of VAT on prescription drugs.

Natural persons

- ▶ For low-income self-employed persons, we will determine a payment option based on a percentage of actual profit.
- ▶ Partial relaxation of rules restricting the so-called under-the-table system.
- ▶ We will introduce a voluntary investment pillar with tax breaks for the use of long-term investment products in areas that bring social benefits - in particular healthcare, social welfare and infrastructure.
- ▶ In the event of the reintroduction of the electronic sales records (EET) system, we will insist on exemptions for all small businesses and sole traders with an annual turnover of up to CZK 5 million.

Incentives

- ▶ Support for industrial research and development through tax deductions at the level of neighboring countries and accelerated depreciation of innovative investments.
- ▶ We do not view film incentives as subsidies, but as investments.

More (in Czech) [HERE](#).

Piráti

General/legal entities

- ▶ We will obtain additional money for the budget by collecting taxes from large companies.
- ▶ Today, tax authorities often fail to do even what they could, including thoroughly checking the outflow of untaxed money to tax havens and the abuse of transfer pricing. Large companies will pay fair taxes where they operate and generate profits.
- ▶ We will streamline tax collection, including through the use of artificial intelligence.
- ▶ We will finally launch a single collection point for all taxes and contributions. Based on the data it has, the state will calculate taxes for each citizen.
- ▶ We are not in favor of the system of electronic sales records (EET). We want a system that helps competition and makes it easier for you to compare prices. An example is a digital receipt that you receive in your storage in the app, on your phone, or on the web. It will not be Big Brother; companies will save paper, and the state will have the data it needs at the same time.
- ▶ Areas designated for housing where little construction is taking place, even though there is a shortage of apartments in the area, will be subject to increased taxes until construction begins.

VAT/excise duties

- ▶ We will reduce VAT on basic and healthy foods such as vegetables and fruit (or baby water), as well as diapers, hygiene products and other necessities.
- ▶ Alcohol tax adjustment.

Natural persons

- ▶ We will prepare tax changes so that 90% of families have a higher net income than they do now, especially poorer families. We will increase the taxpayer allowance and tax bonuses for children.
- ▶ We will obtain additional money for the budget from new sources, such as more people in the labor market and taxation of Russian non-residents' property.
- ▶ We will remove the tax disadvantage of apartments compared to single-family homes.

Incentives

- ▶ To support the Czech defense industry and army, we propose accelerated tax depreciation.

More (in Czech) [HERE](#).

SPD

General/legal entities

- ▶ No tax increases.

More (in Czech) [HERE](#).

SPOLU

General/legal entities

- ▶ The tax environment is fair and predictable, and we maintain low tax rates so that companies can grow, employ people and innovate. Fundamental tax changes are made no more than once per election period.
- ▶ We are building on the approved unified monthly reporting system for employers and will complete the creation of a unified collection point (merging tax, social security and health insurance payments into a single location). This will fully automate tax obligations for citizens and businesses. We will modernize the tax information system so that it automatically calculates the amount to be paid and pre-fills the data based on available information.
- ▶ We will introduce a flat-rate regime and reduce the administrative burden on small businesses up to a certain turnover so that they can grow without unnecessary bureaucracy.

Vat/excise duties

- ▶ For addictive substances, we will adjust excise duties to encourage less risky alternatives.

Natural persons

- ▶ Employers offering flexible working hours and job sharing for parents of young children will receive tax benefits.

Incentives

- ▶ Faster depreciation for companies investing in modern technologies.
- ▶ Higher depreciation allowances for companies investing in modern technologies, processes, and AI.
- ▶ Effective employee shares as support for start-ups and innovative companies.

More (in Czech) [HERE](#).

Stačilo

General/legal entities

- ▶ We will propose a fundamental tax reform that will lead to a fair distribution of the tax burden.

Natural persons

- ▶ We will exempt the thirteenth salary in the amount of the average monthly wage from taxes and contributions.

More (in Czech) [HERE](#).

STAN

General/legal entities

- ▶ At a minimum, we will ensure simplified legislative and financial conditions for start-up entrepreneurs - for example, the option of paying taxes in a lump sum, even for limited liability companies.
- ▶ We will support family businesses and small entrepreneurs in the form of tax breaks, among other things.
- ▶ We will offer tax incentives to employers who systematically support regional schools.
- ▶ We will advocate strengthening the EU's fiscal powers, for example by enhancing the EU's role in tax policy, so that joint projects may be better financed.

VAT/excise duties

- ▶ From 1 January 2027, we will launch a voluntary e-invoicing project, whereby suppliers will send invoices to a central state data warehouse and customers will download them from there.
- ▶ We will introduce a tax on sweetened beverages based on the so-called Polish model, i.e. an excise tax of CZK 3.4/liter for beverages with a sugar density of 50 g/liter and a variable component of CZK 0.35/liter for every 10 g/liter of sugar above this basic threshold.
- ▶ We will increase taxation on cigarettes and other products harmful to health, including alcohol.

Natural persons

- ▶ For personal income tax, we will adjust the tax progression and convert the taxpayer discount into a bonus, which we will regularly index. This will generate additional revenue for public budgets, reduce social inequality, and increase motivation to work.
- ▶ We will advocate for lower taxation on labor for low-income groups. We will introduce the transferability of the basic tax credit to a tax bonus so that funds are directed to low-income households where someone is working.
- ▶ We will support the reform of the Employee Stock Ownership Plan (ESOP) and adjust its system to bolster the development of start-ups.
- ▶ We will regularly revalue tax deductions for investments in old age and extend their application to new types of products, such as long-term investment products (DIP) or long-term care insurance.
- ▶ We will complete the Single Collection Point project.
- ▶ We will introduce the possibility to apply a tax-free portion of the tax base in the amount of CZK 15,000 for commanders, team leaders, and engineers of volunteer fire brigade units, and CZK 10,000 for firefighters and senior firefighters. We will allow employers to deduct CZK 15,000 for each employee who is a member of a volunteer fire brigade and has been released from work to respond to emergencies.

- ▶ We will reduce income tax on property rentals for landlords who are natural persons offering rental contracts for an indefinite period or longer than three years. The benefit will not apply to those who repeatedly chain together short-term contracts or circumvent the Civil Code by increasing the rent for long-term tenants by 20% over three years.
- ▶ Where no one has permanent residence and no rental tax is levied, the owner will have to prove the reason for a property being unoccupied - by means of an annual affidavit, at the very least.
- ▶ We will retain tax relief on mortgages only for the purchase of a first home, or for housing where the recipient or a member of their family has permanent residence and actually lives there.
- ▶ We will support the early start of retirement savings. We will introduce a one-time contribution or tax deduction when concluding a pension product contract before the age of 25.
- ▶ We will support individual savings for long-term social care with tax benefits - the possibility to deduct capital or investment components up to CZK 48,000 per year. We will also allow family members to participate.
- ▶ We will introduce tax deductibility for employee benefits that promote health, exercise and a healthy lifestyle.
- ▶ We will support employee benefits in the area of physical activity and sports and introduce tax incentives for them, for example in a similar form to that used for meal vouchers.
- ▶ We will discuss the amendment to the Investment Incentives Act, which will enable the targeted use of investment incentives to support economic development in specific regions. We will focus, for example, on tax breaks, preferential land transfers including infrastructure, and material support for job creation.
- ▶ We will push through tax incentives for investments in defense research and development.
- ▶ We will support the creation of special economic zones with a reform impact, which will serve as an environment for the development of start-ups, small and medium-sized enterprises with innovative approaches to solving current regional problems. In these zones, we will provide support in the form of zero taxation of corporate income, real estate, and dividends, or an annual contribution to employee education. We will prepare targeted subsidy instruments for entrepreneurs, such as contributions to wages, commercial space rentals and marketing. We will also provide financial support to private schools and healthcare facilities operating in these zones.
- ▶ In selected energy segments, we propose introducing the possibility of above-limit (or accelerated) tax depreciation.
- ▶ Under the Minister for Innovation, Science, and Higher Education, we will establish a certification authority for private research. Every private entity that receives this certification will gain an indisputable right to tax exemption for its research activities, including the corporate portion of payroll taxes for scientific and technical personnel.

Incentives

- ▶ We will focus on tax incentives for investments in technology. The priority will be to provide tax relief to companies that invest in the modernization of production processes, digitization and green technologies. We will prioritize tax relief over investment subsidies.
- ▶ We will introduce the Opportunity Zones program, which will enable businesses to invest in economically disadvantaged areas by taking advantage of tax benefits rather than one-off subsidy support.

- ▶ Tax relief or bonuses for small and medium-sized enterprises in the field of Czech production of medicinal substances and medicinal products.

More (in Czech) [HERE](#).

Pillar 2



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Pillar amendment approved

The lengthy process of [amending](#) the current wording of the law on top-up taxes has come to a successful conclusion.

As we have already informed you, the main objective of this amendment is to qualify the Czech top-up tax as a so-called QDMTT and also for the QDMTT safe harbor.

As a brief summary of the most significant changes, we have selected the following points from the many conceptual and legislative-technical amendments in the amendment:

- ▶ extension of deadlines for filing tax returns and information reports on Czech top-up tax from the current 10 months to 22 months in the case of tax returns and 15 months in the case of information reports (18 months for the first reporting period),
- ▶ extension of the scope of taxpayers subject to Czech top-up tax to include joint ventures (JV) and entities with an element of tax transparency,
- ▶ reflecting new OECD interpretations not only in amendments to the CbCR safe harbor - in particular amendments to purchase price allocation (PPA), hybrid arbitrage arrangements, modifications to provisions on the availability of safe harbor for investment entities, or limitations on deferred tax assets associated with so-called government arrangements,
- ▶ clarification in the area of currency conversion for "pillar" calculations, and

- ▶ minor changes to certain definitions, e.g. partially-owned parent entities or investment funds.

The main objectives of this amendment are to extend the deadlines for Czech filings and to ensure that Czech top-up tax qualifies as QDMTT, as well as to provide a safe harbor for QDMTT.



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The EU and sustainable business regulation: should commercial corporations continue to serve the pursuit of profit?

Current EU regulations on sustainability are increasingly raising the question of the extent to which large commercial corporations are obliged to contribute through their activities to sustainable development, climate protection and society at large.

In recent years, a number of directives has been adopted within the EU aiming to impose an obligation on large commercial corporations to contribute to sustainable development and the fight for climate protection. Through this regulation, the EU is pursuing its political goal of becoming a climate-neutral continent by 2050. At the same time, the EU wants to be a global leader in the fight against climate change and a proponent of sustainable legislation.

Leaving aside special regulations for financial institutions and the EU Deforestation Regulation (EUDR), which aims to combat deforestation, the key regulations in this area are the Corporate Sustainability Reporting Directive (CSRD) and the Corporate Sustainability Due Diligence Directive (CSDDD).

The aim of the first directive is to introduce an obligation for large commercial corporations to publish non-financial information relating to sustainability. Companies should thus inform investors and the general public about the steps they are implementing in their business strategy, how their

activities contribute to sustainable development, whether and how they are reducing their greenhouse gas emissions, and how they are ensuring appropriate working conditions for their employees.

The second mentioned directive, CSDDD, introduces an obligation for large corporations to identify, prevent and mitigate the negative impacts of their activities on human rights and the environment in the production of their products or services. This obligation should be implemented through in-depth monitoring of their own operations, as well as the operations of their business partners within the corporation's supply chain.

The scope of the CSRD and CSDDD should include not only large commercial corporations based in the European Union, but also large non-European corporations that achieve significant turnover within the EU through the sale of goods or services.

Both directives are now undergoing a major revision in response to global political perceptions of sustainability regulation, but also to concerns

about the loss of competitiveness of the EU market and European corporations. Although adopted in 2022 and 2024, respectively, their effectiveness has now been postponed. In addition, the so-called simplification package presented by the European Commission in the spring of this year (OMNIBUS) aims to significantly reduce not only the obligations arising from both directives, but also the scope of the corporations concerned.

Despite these ambivalent steps, lawyers, academics, and company managers are increasingly asking how sustainability regulations should be perceived. In layman's terms, what is expected of corporations? What should their purpose be? Is it still possible to establish corporations for the purpose of making a profit and realizing the founders' business plans?

Academics and public officials are increasingly saying that large corporations should bear part of the burden that otherwise falls on states and their governments in the fight for sustainability. After all, it is large corporations that have the capital to wage this fight. The profits of many world-renowned corporations are many times higher than, for example, the gross domestic product of the Czech Republic.

A number of countries in Europe are regulating the purpose of corporations. For example, France allows the establishment of special public benefit companies or the specific definition of a corporation's purpose in its founding legal documents. Similarly, defining the purpose and objectives of a corporation is recommended under corporate governance rules in the United Kingdom.

But what do these considerations mean in practical terms for ordinary commercial corporations in the Czech Republic, for corporations not traded on regulated markets? Czech commercial corporation law allows founders to define the purpose of a corporation by defining its business activities. As the Supreme Court has concluded in its landmark decisions in recent years, these business activities may be formulated at the discretion of the founders. It can be formulated in general terms (for example, in accordance with the name of a specific trade or other regulated business activity), but also in very specific terms (for example, by defining the specific products or services that the corporation offers and produces). In any case, it must clearly reflect the actual activities of the business corporation, otherwise the corporation faces sanctions and, in extreme cases, even its dissolution and liquidation.

In addition, a commercial corporation may, at its discretion, define its purpose in more detail. In this regard, however, it is highly recommended that corporations approach such a definition of the subject of the corporation's activities and its purpose with the utmost caution. If a corporation wants to not only generate profits for its founders and shareholders through its activities, but also contribute to the common good (for example, contribute to the sustainable development of society), it must be prepared to face the risk of being held accountable if it fails to achieve these philanthropic goals. Therefore, it remains true that business corporations can be established relatively freely and without major difficulties for business purposes, which can be highly volatile. However, if a corporation wishes to publicly declare its intention to pursue goals other than purely business objectives, it should carefully consider how to formulate this declaration in order to protect both itself and its management from potential liability.

If a corporation wants its activities to not only generate profits for its founders and shareholders, but also contribute to the common good (for example, contribute to the sustainable development of society), it must be prepared to face the risk of being held accountable if it fails to achieve these philanthropic goals.



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The CJEU confirmed existing interpretation practice in the area of VAT exemption for indirect exports of goods

In August, the Court of Justice of the EU issued judgment C-602/24 W. sp. z o. o., in which it dealt with the possibility of exempting the export of goods from VAT under the so-called "indirect export" regime.

Circumstances of the case

In 2017 and 2018, a Polish company supplied apples to a Latvian company in Lithuania. The company claimed exemption from Polish VAT as for the supply of goods to another Member State.

The apples were handed over to other carriers in Lithuania, who transported the goods to Belarus. The transport of goods from Lithuania outside the EU was provided by a Latvian company. The Polish companies were not aware of this fact; it was only discovered by the tax authorities.

The Polish tax authorities assessed the supply of the goods in question as a domestic supply and imposed the relevant VAT. The Polish company subsequently claimed that the supply of goods was in the nature of indirect export and sought exemption from tax on the grounds that the goods were exported to a third country.

The court of first instance agreed with the company's opinion that the substantive conditions for the indirect export regime had been met.

The Polish Supreme Administrative Court did not agree with this view; according to the court, at the time of delivery of the goods, there was no intention or will on the part of the contracting parties to the transaction to carry out the delivery of goods "for export." For this reason, it is not permissible to change the legal classification of this supply. However, the court referred a preliminary question to the Court of Justice of the EU.

Fulfilment of material conditions for tax exemption in the case of export of goods

The Court of Justice of the EU dealt with the question of whether the VAT exemption under Article 146(1) (a) and (b) of the VAT Directive applies to the supply of goods that were originally declared as a supply of goods to another Member State, which the purchaser exported outside the EU without the supplier's knowledge, and this export was proven by the tax authorities.

The Court of Justice of the EU has confirmed the existing interpretation according to which the conditions for applying VAT exemption on exports are met if the right to dispose of the goods as owner is transferred to the purchaser, the supplier proves that the goods have been dispatched or transported outside the EU, and the goods physically leave the EU.

The Court of Justice of the EU emphasized, among other things, the objective nature of the concept of "delivery of goods"; the intention or will of the contracting parties as subjective criteria do not play a role. According to the court, in the case in question, there was undoubtedly a transfer of the right to dispose of the goods as owner to the Latvian company, the goods were transported outside the EU, and these goods actually left the EU.

Fulfilment of formal requirements for tax exemption in the case of export of goods

According to Polish legislation, in order to claim VAT exemption, the supplier must have a document confirming the export of goods outside the EU. The VAT Directive allows Member States to lay down formal requirements for the application of VAT exemption. However, these conditions must not alter the scope of the tax exemption laid down in the VAT Directive. According to the Court of Justice of the EU, it is disproportionate and contrary to the principle of tax neutrality to refuse tax exemption solely on the grounds that a person does not have the correct export documents.

The CJEU has repeatedly confirmed that tax exemption may be refused on the grounds of formal deficiencies only if those formal deficiencies prevent the facts of the case from being reliably established or if the person concerned is involved in tax evasion. However, none of these circumstances applied in the case in question.

Older cases examined by the Court of Justice of the EU

The case of the Polish company does not bring about any revolutionary change in current practice. The Court of Justice of the EU has long rejected the idea of making tax exemptions on exports conditional on formal requirements.

C-111/92 Wilfried Lange

In 1985 and 1986, Mr. Lange illegally exported computer systems from Germany to Eastern Bloc countries (Bulgaria, Czechoslovakia, USSR), which was prohibited by German customs regulations. As a result, he did not have (and, due to the embargo, could not have) the relevant export license.

The Court of Justice of the European Union already stated in 1993 that the illegality of exports cannot affect the possibility of applying VAT exemption.

C-275/18 Milan Vinš

Mr. Vinš sent small military items by post outside the EU. The post office declared the shipments to customs for export verbally, which is why Mr. Vinš did not have export customs declarations. However, there was no doubt that the post office had actually transported the shipments outside the EU.

In this Czech case, the Court of Justice of the European Union also concluded that national legislation cannot make VAT exemption conditional on the possession of customs declarations.

The Grammer case

A similar situation to that of the Polish company was also dealt with by the Supreme Administrative Court of the Czech Republic in 2014 in case 3 Afs 41/2014 - 46. In 2005, the Czech company Grammer CZ supplied goods from the Czech Republic to the German company Grammer DE in Germany. Grammer DE subsequently sold the goods to Lear in South Africa. The goods were shipped by Grammer CZ to Germany, where they were handed over to another carrier and then transported to South Africa on behalf of Lear.

Grammer CZ reported this transaction as a VAT-exempt supply of goods to another Member State. The tax administrator disputed the exemption. The court of first instance assessed Grammer CZ's transaction as a domestic supply of goods. According to the court, the goods were not imported into

Germany until the second transaction between Grammer DE and Lear. The court concluded that the first transaction could not be exempted as an export of goods either, since the goods were not exported until the second transaction by Grammer DE.

The Supreme Administrative Court upheld the decision. It did not consider the possibility of exempting the first transaction as an indirect export of goods. However, the tax administration had already admitted the possibility of exempting indirect exports of goods in 2012 during discussions of the Coordination Committee. Neither the court of first instance nor the Supreme Administrative Court found grounds for submitting a preliminary question to the CJEU. If a preliminary question had been raised, it is highly likely that, in light of the commented decisions, the Court of Justice of the EU would have ruled in favor of the company.

The CJEU has repeatedly confirmed that tax exemption may be refused on the grounds of formal deficiencies only if those formal deficiencies prevent the facts of the case from being reliably established or if the person concerned is involved in tax evasion. However, none of these circumstances applied in the case in question.

Tax administration



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Interesting facts about financial administration activities

The Financial Administration issues an annual [report on its activities](#). This report comments not only on tax collection, but also on control activities and international cooperation in the field of taxation. In this article, we summarize those statistics and trends of recent years that have most caught our attention.

Tax collection

In 2024, the total value of tax revenues collected by the financial administration reached CZK 1,222,521.6 million, representing a year-on-year increase of 1.1% compared to 2023. This increase was influenced, among other things, by a combination of growth in personal income tax (DPFO) collection from dependent activities by CZK 24.6 billion (i.e. by 13.9%), VAT by CZK 16.9 billion (i.e. by 3.0%) and real estate tax by CZK 10.7 billion (i.e. by 85.6%). At the same time, there was a significant decrease in corporate income tax collection of CZK 20.8 billion (i.e. 6.8%) and the termination of the collection of levies on excess revenues of electricity producers in connection with price caps (in 2023, collection totaled CZK 19.2 billion).

VAT

The level of VAT collection in 2024 was favorably influenced mainly by an increase in household consumption expenditure. Legislative changes effective from January 2024 also had an impact, with two reduced rates being merged into a single

12% rate and certain goods and services being moved from the reduced rate to the standard VAT rate. Positive developments were also recorded in the VAT gap, which has been declining since 2019; in 2023, it fell to 3.5% from 8.7% in 2022. This confirms the improving efficiency of VAT collection.

Corporate income tax

The year-on-year decline in corporate income tax revenue was mainly influenced by falling energy prices and a general increase in costs across a wide range of taxpayers. Another significant factor was the increase in the volume of refunds caused by the fact that in 2023, significantly more was paid in advance than the taxpayers' tax liabilities amounted to.

Real estate tax

In 2024, there was a significant increase in real estate tax collection, mainly as a result of the adoption of a consolidation package that increased tax rates by approximately 80% and abolished certain tax exemptions. Year-on-year, tax collection increased by more than 85%. The growth continues to be driven

by ongoing inspections by tax administrators, who search for undeclared or incorrectly declared real estate based on comparisons with data from the real estate cadaster. The possibility for municipalities to adjust the tax using coefficients, especially local ones, also has a positive impact.

Control activity

Compared to the previous year, there was an increase in the number of VAT tax audits carried out, while the number of audits for other taxes decreased. Overall, the total number of tax audits decreased by 8.4% year-on-year. The total amount of additional tax assessed decreased by 44.5% compared to 2023, which is largely due to the extraordinary results achieved in the previous period, particularly in the area of VAT.

As in the past, the tax administrator focused most of its audits on VAT, particularly on investigating chain fraud, unauthorized tax deductions, failure to report taxable supplies, and verifying the completeness of reported intra-Community transactions.

The volumes of additional tax assessments in the area of corporate income tax mainly originate from tax audits focused on the failure to prove costs for the purposes of determining the tax base, the exclusion of income from business activities from the tax base, the setting of transfer prices between related parties or crown-denominated bonds.

In the area of transfer pricing, tax administrators focused in 2024 on audits of transfers of intangible assets (trademarks, copyrights, or software), financial transactions (loans, borrowings, bonds), and resale of advertising, among other things.

In the area of personal income tax, tax audits focused on findings relating to the non-declaration of all taxable income, incorrectly kept tax records, failure to prove the tax deductibility of expenses, and, in the case of personal income tax from dependent activity, the illegal provision of labor.

According to the financial administration, the reports submitted to law enforcement authorities mainly concerned illegal work and concealed job placement (supply of labor), leaks in invoicing chains and leaks related to the provision of overpriced advertising services or other services. In the area of tax crime, the problem of so-called empty mailboxes persists, which are usually formally headed by an unidentified person presenting forged documents or a third-country national.

Success rate of appeals, administrative lawsuits, and other defense instruments

Appealing against tax assessment decisions can make sense in many cases. Financial administration statistics show that, for example, in the case of corporate income tax, the Financial Appeals Directorate partially or fully upheld appeals in favor of taxpayers in 32% of cases, and in the case of personal income tax returns, in as many as 55% of cases.

Although the total value of prescribed tax accessories (such as interest or penalties) increased by 22.5% year-on-year (by CZK 2.1 billion), data from the financial administration show that requesting their remission is justified. The total value of waived tax accessories and other revenues reached CZK 266.2 million in 2024.

As in the previous year, regional courts mostly upheld the opinions of the tax authorities (in approximately 80% of cases). However, in a number of cases, the Supreme Administrative Court assessed the matter differently. In 2024, it assessed a total of 548 cassation complaints, ruling in favor of taxpayers in 25% of cases.

International cooperation

In 2024, there was a decline in domestic requests for international information exchange. There was also less interest in binding advance pricing agreements. In 2024, 20 requests were submitted, which represents a 50% decrease compared to the previous year.

In the area of transfer pricing, tax administrators focused in 2024 on audits of transfers of intangible assets (trademarks, copyrights, or software), financial transactions (loans, borrowings, bonds) and resale of advertising, among other things.



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Another decision on an acquisition loan and abuse

The structure in question

- ▶ The newly established Czech company A purchased two existing Czech operating subsidiaries C and D from its affiliated foreign company B (the acquisition was financed by an intra-group loan from abroad), followed by a merger of C and D and conversion into a limited partnership (with A as the general partner).
- ▶ As a result, it deducted interest on the acquisition loan from the tax base now generated by the limited partnership, while foreign company B effectively retained indirect control over the Czech operating company.

View of the tax administrator

- ▶ The tax administrator refused to recognize interest on an acquisition loan, citing abuse of rights.
- ▶ According to the tax administrator, a structure was deliberately created that had no other significant purpose than to obtain tax advantages and did not represent an opportunity for the group within the Czech Republic to achieve new taxable income.

The company's view

- ▶ No tax advantage was achieved - this can only be regarded as unilateral and is neutralized once the taxable interest income abroad is also taken into account.
- ▶ A group burdened by external financing and the costs thereof must allow individual companies within the group to participate in this financing, otherwise it cannot function effectively as a whole; the motive was therefore not tax-related, but financial - replacing equity capital with debt capital and channeling interest to the "higher echelons" of the group (reference to the analogy with the OKD case).

View of the Municipal Court - first round

- ▶ The Municipal Court in Prague agreed with the tax administrator's view.
- ▶ The restructuring and transactions took place only within the group, without any new acquisitions or other operations that would objectively generate new income (beyond the tax benefit) or contribute to maintaining existing income.

View of the Supreme Administrative Court - first round

- ▶ The Supreme Administrative Court ruled that the Municipal Court's judgment was not reviewable due to failure to properly address the objection regarding the (non-)existence of a tax advantage from the perspective of the entire structure.

The good news is that the Supreme Administrative Court suggests that it may take a different view of the “push-down” of acquisition loans in external acquisitions.

View of the Municipal Court - second round

- ▶ The Municipal Court confirmed its original negative view.
- ▶ Facts relating to tax paid abroad on the difference between interest income and interest expenses arising from a slight difference in interest rates in individual intra-group credit transactions cannot be considered as circumstances precluding the finding of a tax advantage.
- ▶ The court could not revise its conclusion on tax relief in view of the alleged payment of tax on interest income to bondholders outside the group.

View of the Supreme Administrative Court - second - and likely final - round

- ▶ The Supreme Administrative Court [upheld](#) negative conclusion of the tax administrator and the Municipal Court.
- ▶ The good news is that the Supreme Administrative Court suggests that it may take a different view of the “push-down” of acquisition loans in external acquisitions.
- ▶ The sad news is that the company (its representative) failed to raise a potentially relevant argument in time regarding the need to take into account the fact that the final bondholders are at the end of the financing chain - the Supreme Administrative Court therefore refused to deal with it.
- ▶ The Supreme Administrative Court also stated that, given the significant differences in the facts of the case, the judgment in the OKD case cannot be used as a basis.

Case law



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Is a managing director liable for any tax assessment they have caused?

We present an interesting [ruling](#) by the Regional Court in Brno on the subject of managing directors' liability for tax reassessments.

What happened?

The managing director instructed that an estimated liability accrual be recorded in the company's accounts for an alleged expected commission, even though the managing director must have known that the accrual recorded did not correspond to any actual tax-deductible expense.

The company was later assessed corporate income tax on this amount, including interest on arrears and penalties. In addition, the managing director was found guilty of tax evasion in connection with this matter.

Then comes the tax administrator and, with reference to § 171(1) of the Tax Code in conjunction with § 159(3) of the Civil Code, issues a guarantee request to the managing director to pay the tax arrears in question.

What did the court have to say?

The Regional Court concluded that liability does not apply in this case because, according to the case law of the Supreme Administrative Court, a tax

assessment itself does not constitute damage within the meaning of § 159(3) of the Civil Code.

According to the court, damage should be considered to be "only" an interference with the company's assets, which resulted in the legal entity not having sufficient funds to pay the additional tax assessed. According to the regional court, these conclusions also apply in the case of tax accessories.

However, the tax authorities in no way addressed the connection between the actions of the managing director and the company's inability to pay the tax arrears (e.g. due to the transfer of funds, embezzlement or other actions of the managing director).

A cassation complaint has been filed, so we will see what the Supreme Administrative Court has to say about it.

The Regional Court concluded that liability does not apply in this case because, according to the case law of the Supreme Administrative Court, a tax assessment itself does not constitute damage.

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- ▶ [Changes](#) are planned to the rules for applying VAT to imported shipments?
- ▶ An Accounting Act [amendment](#) was approved?
- ▶ Work is underway on an [amendment](#) to the Regulation on Investment Incentives?
- ▶ Biogas now enjoys a broader [exemption](#) from gas tax?
- ▶ Without high-quality [documentation](#), the delivery of goods to the EU cannot be VAT-exempt?
- ▶ EU and the United States [are continuing](#) to negotiate the details of a new Framework Trade Agreement?