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Spring news in tax law |

**Overlap of directors' functions and the tax implications
Changes in VAT refund claim
Technical amendment to the Tax Administration Code**

| 1. Overlap of the statutory representative function with employment

In December 2010 the Supreme Administrative Court confirmed in its decision constant judicature according to which no employment contract arises with regard to a person who acts on a statutory body (statutory executive) in the company and is also an employee. Therefore no sickness insurance relationship arises for such a person. In addition, there is also a threat in the form of tax non-deductibility of remuneration paid, based on a non-existent labour-law relationship for the company in such a situation. This decision caused considerable uncertainty in Czech business circles. In the future, this situation is expected to be solved by an amendment to the Commercial Code, which should explicitly permit the overlap of functions. As regards the events of the past, according to press reports of the Ministry of Labour and Social Affairs, the social security authorities or tax authorities will not prepare an inspection aimed at disputing of employment contracts of statutory bodies or their members. In accordance with the Labour Code the invalidity of a case of employment may be raised only by those who are affected.

| 2. Amendment to the VAT Act – changes in VAT refund claim

As of 1 April 2011, the amendment to the VAT Act - which will finally bring the Czech VAT law into accordance with EU rules - will enter into effect. This amendment will bring a number of significant changes. However, the most important will be the change in rules related to the VAT refund. Receiving an invoice by the of the preparation and submission of the VAT return is not sufficient in order to claim the VAT refund. This will be possible only in tax return for the tax period when tax payer has received the respective invoice, even if this invoice relates to the taxable supply realized in previous tax period.

| 3. Technical amendment to the Tax Administration Code

So-called technical amendment to the Tax Administration Code came into force at the beginning of March. Besides specifications of the technical nature, it brings also some significant changes. The position of the proxy in the tax procedures has been changed. The proxy will be no longer seen as an attorney of the taxpayer, but – provided that this accordance with the power granted, he or she is entitled to act independently - is included in the group of persons authorized to act on behalf of the company. Furthermore, powers of attorney granted by the taxpayer in any tax matters do not have to be expressly accepted by the attorney anymore. However, this rule applies only to the powers of attorney submitted to the tax administrator after 1 March 2011.

Deadline for submission of Income Tax Return is getting closer!

Companies and individuals, whose tax period is a calendar year, an extended deadline for submission of Personal/Corporate Income Tax Return does not apply for them and which are not subject to the obligatory audit, are obliged to submit their tax returns as well as to pay the corresponding tax by 1 April 2011 at the latest.

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