



Tax&Legal Highlights

Czech Republic

Introduction of digital tax in the Czech Republic

The Ministry of Finance has presented a legislative draft of the taxation of income from digital services, a so-called "digital tax", and it has sent it for external consultation.

As has already been mentioned in our previous article, the Ministry of Finance brings a proposal of a digital tax rate in the record amount of 7% for selected internet services provided in the Czech Republic.

The newly taxed services will include:

1. Placement of targeted advertising on the internet;
2. Digital mediation services; and
3. Sale of user data.

Based on the current wording of the act, companies meeting the following two conditions will be subject to the tax from mid-2020:

4. The company has consolidated income exceeding EUR 750 million; and simultaneously

5. The aggregate amount of payments for the taxed services provided in the territory of the Czech Republic exceeds CZK 50 million.

The purpose of the digital tax is clear from the statement of reasons and it has been confirmed by the Ministry of Finance itself. The objective is the fair taxation of large technological companies that are not based in the Czech Republic. Typically, they are large technological giants that operate social media, internet search engines, mediators of goods or services, etc. The term 'not based' is absolutely essential in this case. However, the choice of terminology in the draft bill does not lead to a clear definition and at present, the obligation to pay digital tax would concern even entities of multinational companies which are properly registered in the Czech Republic and pay corporate income tax. Should the wording of the draft bill remain unchanged, these companies would suffer a significant disadvantage compared to their domestic competitors and it could even lead to a decrease in the economic activity of these companies (which was certainly not the original intention).

The tax base is composed of sales of selected digital services attributed to Czech users. The nationality of users should be determined based on IP addresses, which the companies will newly be required to track. At present, it is not clear from the draft bill what should be done in the event that it is not possible to determine the state where the user is located based on the IP address and at the same time the user's address is not known. The draft bill does also not take into consideration the possibility of manual software changes of the IP address.

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Investment incentives and their end for the manufacturing industry?

Are you planning investments in production in the coming months? If so, it is a good time to consider whether to apply for an investment incentive now. If you file an application before the amendment to the Act on Investment Incentives becomes effective, the existing conditions will apply.

Investment incentives will have new rules

On Wednesday, 24 July 2019, the Senate approved the governmental proposal of an amendment to the Act on Investment Incentives. The amendment can be expected to come into force approximately in October 2019.

The amendment to the Act on Investment Incentives is expected to limit investment incentives for other than “supported regions” with higher unemployment. Support will be directed primarily to projects with higher added value (projects with the condition of a higher ratio of employees with higher salaries and university education, by cooperation with universities and research organisations, or investments in research and development projects).

Government approval will be needed

An important new aspect of the system of awarding investment incentives is the condition of the government’s approval of all the applications with respect to the benefit brought to the region by the investment. A positive change concerns the cancellation of the condition of creating job openings for investments in manufacturing, and the halving of the limits of general conditions for small and medium-sized enterprises. Technological centres and centres for strategic services will attract more intensive support in the form of cash support of job openings in all regions or by decreasing the limits for new job openings for strategic investments.

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What is the future of electronic sales records?

During June, the Chamber of Deputies approved in the third reading an amendment to the Act on Sales Records. As such, the voting lasted several days because of more than 800 motions to amend. During July, the amendment was considered by the Senate, which dismissed it. The proposed amendment will thus be returned to the Chamber of Deputies.

The effective date of the amendment, or more precisely of its core part providing for extending the duty to record sales to the remaining payers, is postponed to the first day of the 7th calendar month following the date of the amendment being published in the Collection of Laws. The nearest ordinary meeting of the Chamber of Deputies is scheduled to take place in September 2019. Therefore, the question is when and in which wording the amendment is to be approved.

The current wording of amendment provides for the following:

- Introducing the duty to record sales for the remaining payers (sale of own products, provision of services);
- Ruling out the duty to record sales generated outside the Czech Republic;
- New sales records exceptions for social services, visually impaired entrepreneurs, sale of freshwater fish from 18 to 24 December, pre-paid telephone cards as well as sales generated by air transportation and gambling;
- Re-introducing the duty to include the tax ID number on receipts unless it includes the payer's birth certificate number; and
- Payers with annual sales up to CZK 600,000 may apply for recording sales in a paper form using a receipt block provided by the tax administrator.

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The most significant changes in the field of labour migration after the amendment to the Act on the Residence of Foreigners

The amendment to the Act on the Residence of Aliens, which was signed by the President of the Czech Republic on 4th of July and was sent to be published in the Collection of the laws should come into effect in August 2019. The implementing regulations which are part of the amendment should come into effect in September 2019. Based on the EU transposition directive, the changes will enable foreign university students and researchers to stay in the Czech Republic up to nine months after completing their studies or research activities on the basis of a long-term residence for the purpose of finding a job or starting a business.

An extraordinary long-term work visa valid for a maximum of one year will be newly introduced to facilitate the recruitment of foreign workers for certain occupational sectors suffering from a long-term labour shortage. Acceptance of applications for this type of visa should be launched by a special government regulation in order to react flexibly to the situation on the labour market, without the possibility of extension. At present, it is not clear whether the holders of this type of visa will be allowed to apply for another type of residence in the Czech Republic if they want to remain in the territory for more than one year.

In addition, the amendment introduces the obligation to complete an adaptation-integration course (the effect was postponed to January 2021). A foreigner (if not subject to an exception from this obligation) should complete the course during the first year after entering the Czech Republic. It should be a one-day course and the expected length is eight hours.

The amendment also introduces quotas for the number of applications received at embassies of the Czech Republic abroad. This implementing regulation is expected to come into effect from September 2019 (an inter-ministerial consultation procedure is currently ongoing). Thus, the government regulation will set the maximum number of applications for long-term visas for the purpose of business and employee cards, which can be filed at individual embassies. Currently, some embassies do not allow foreigners to arrange meetings to apply for selected residence permits for September 2019 with reference to the quotas under preparation.

Another innovation is the transformation of current economic migration projects into new government economic migration programmes. Current economic migration projects and schemes will merge and three types of government economic migration programmes will be introduced. The new government economic migration programmes should be launched in September 2019.

1. Programme for key and scientific personnel

- This program replaces the Fast Track and Welcome Package for Investors.
- Newly there is a possibility of recruiting new employees; previously it was possible to use only intracompany transfers and relocations of employees.

2. Programme for highly qualified employees

- Significant territorial enlargement; previously only for highly qualified employees from Ukraine and India.

3. Programme for qualified employees

- So far the programme has been limited to Ukraine, Mongolia, the Philippines and Serbia; the programme will be extended to Belarus, Montenegro, India, Kazakhstan and Moldova.

The amendment also includes changes related to the employee card. The consent of the Ministry of the Interior with the change of employer or job position has been replaced by a notification obligation. The foreigner should report the change 30 days in advance and, if the conditions are met, both

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the foreigner and the employer will be notified by the Ministry of the change approval. The change of employer has been limited to the possibility of change after six months of the foreigner's residence in the territory (possibility of earlier change in specific cases) in relation to the employer for which the first employee card was issued.

Some changes will also affect EU / EEA or Swiss citizens; pursuant to the transitional provision of the amendment, certificates of temporary residence in the Czech territory issued before 1 January 2010 will expire on 31 December 2019. Certificates of temporary residence issued before the effective date of this Act (after 1 January 2010) will expire in 10 years from the date of its issuance.

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