



Tax&Legal Highlights

Czech Republic

Currently on ATAD implementation

The proposed amendment to the Income Taxes Act (included in the government package of tax law amendments), whose primary objective is to implement the EU Anti Tax Avoidance Directive – ATAD from 1 January 2019, is awaiting debate in the Chamber of Deputies in the first reading. A question mark is therefore beginning to appear regarding whether or not the proposed amendment will be able to go through the whole legislative process by the year end.

Given the complexity of the new provisions of the implemented directive (especially the definition and calculation of deductibility of interest and financial expenses arising from loans, CFC rules etc.), the Financial Administration is working to prepare methodology to describe the procedures according to the new provisions and definitions in more detail including illustrations on specific examples. At present it is unclear what form the methodology will have or when the Financial Administration should publish it.

We will continue to monitor any further development.

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Tax changes in the taxation of investment funds

In the June issue of dReport, we informed you about the amendment included in the planned change in the taxation of basic investment funds. On 19 July 2018, an act was adopted (with effect from 1 January 2019) which includes a narrowing of the definition of a basic investment fund, and removes from the definition those funds whose shares are admitted to trading only on the European regulated market and do not fulfil the other conditions enumerated by law. These funds will now be subject to the standard corporate rate of 19% and not the current rate of 5%.

As we have reported before, the reason for the change was the Senate's effort to remove from the definition of the basic investment funds the funds that are only registered on a regulated market without actually performing investment activities. Pursuant to the amendment, the benefits of lower taxation can only be drawn by the funds that are active in making investments on financial markets.

The adopted amendment stipulates that the **basic investment funds include the funds listed for trading on a European regulated market with no corporate income taxpayer having any investment of 10% or more in the registered capital of the relevant investment fund**; in order to meet the condition, investments of related parties that are corporate income taxpayers are considered to be investments of a single taxpayer; the condition is considered to be met even if the permitted investment in the registered capital is exceeded over a period shorter than a half of the taxation period or a period for which a tax return is filed or a period shorter than six months if the taxation period is longer than 12 months and if the fund is not involved in a trade under the conditions stipulated by the Trade Licensing Act.

The above-specified restriction will thus relate to the funds that are only considered to be basic investment funds under the Income Taxes Act due to the fact that they are listed for trading on a European regulated market and at the same time, they are owned within a group or by a limited number of owners, whereby the share of each owner is 10% or more.

The amendment will apply to tax obligations arising after the effective date of the Act, i.e. **from 1 January 2019**.

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The flat expense charge-off for entrepreneurs will not increase

The Chamber of Deputies rejected an amendment intended to restore the cap on the flat expense charge-off ("paušální výdaje") to the past year's level, i.e. in relation to the annual income of CZK 2 million.

As a result, for all income from independent activities, the flat expense charge-off remains only at CZK 1 million per year (income in excess of this amount is taxed on a gross basis). Entrepreneurs and sole traders will need to work out properly whether a more beneficial treatment for them does not involve deducting the actual expenses incurred. Changing the treatment also requires taking into account special obligations related to the change such as additional taxation of receivables, etc.

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