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PRACTICAL APPLICATION OF CHANGES IN DEPRECIATION OF FIXED ASSETS

MORE ON PAGE 2

ESEF - A NEW OBLIGATION FOR LISTED COMPANIES

MORE ON PAGE 4

MARK IN YOUR CALENDARS: EVENTS AND WEBINARS

MORE ON PAGE 4

EDITORIAL



Dear readers,

The amendment to the Income Tax Act valid for 2021, with some retrospectively effective provisions, was published in the Collection of Laws, 5 minutes before midnight on the last day of 2020. The past year - and the current year 2021 - will be periods marked by significant reconsiderations of many valid ideas.

The first insight was a reminder to me of how little valorisation is accepted in the Income Tax Act. The amount of the acquisition price at the level of CZK 40,000 for the compulsory tax depreciation of fixed assets was determined already in 1993, ie at a time when the average monthly wage was almost CZK 6,000. In 2020, the average monthly salary is approximately CZK 34,000. When valorising according to the average wage, today the limit for inclusion in depreciated assets would be at the level of CZK 240,000. Inflation, as well as successful economic developments, have meant that expenditures that could be applied directly to costs in 1993 are now, quite unnoticed, several times smaller. Therefore, companies and entrepreneurs pay higher taxes in real terms. The same applies to the non-valorised non-taxable personal

income tax base, which was only reminded to us by proposals from opposition parties during the discussion of the amendment to the law. Unfortunately, this valorisation proposal was in fact buried by the Senate. The government, and especially the Ministry of Finance, thus have retained all the benefits of inflation for a long period of time and, through inaction, have really increased the income tax base for legal and natural persons, therefore increasing the revenues of the state budget. This is not entirely fair tax collection.

The second insight was an approved proposal to remove the calculation of personal income tax from the so-called super gross wage without an adequate increase in the tax rate from 15% to at least 19%, in violation of the coalition agreement. None of us could have imagined that the state budget could be approved without incorporating the proposed and realistically expected significant change in the tax law, which would cause a staggering budget deficit in the tens of billions of crowns in 2021 and the years to come. The second personal income tax rate of 23% does not address the state budget deficit in this context, but is a significant increase in the personal taxation of income from property, ie income arising primarily from the rental of real estate

CONTENT

- ▶ Practical application of changes in depreciation of fixed assets
- ▶ Additional assessment of tax as a prelude to criminal proceedings
- ▶ ESEF - a new obligation for listed companies
- ▶ Mark in your calendars: events and webinars

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and one-off sales of property.

The third surprise is the proposal to tax the types of income that have been exempted so far, ie specifically income from the transfer of shares over CZK 20 million, even after the time test for their exemption has expired. Fortunately, this proposal was rejected by the Senate. Until now, selected types of income resulting from the transfer of property have been exempt from personal income tax in the Czech Republic. These are mainly income between close persons during inheritance or donation. Exempt income from the transfer of shares and business interests to a business corporation after the expiration of the time test of 3 and 5 years respectively from their acquisition. In the long run, we take it for granted that labour is significantly taxed in our country, while income from property ownership and capital income is taxed favourably or is often exempt from income tax. We should be careful, because changes can come with a new upcoming political representation very unexpectedly and quickly.

The last concept, which the Government of the Czech Republic completely surpassed in 2020, is to break the assumption that if the state makes it impossible for some businesses to do business, even in the name of protecting the population from a pandemic, it will not be willing to compensate them for the damage caused. All the support programs are still insufficient and far from covering the costs, let alone the unrealized profits that the closed companies have. Partial compensation for wage costs cannot avert the fact that valuable work teams will probably have to be reduced in some fields. On the contrary, many fields are given the opportunity to develop thanks to the digitalisation of the economy. I wish you every success and a lot of courage in making fundamental decisions that we could not have imagined at all at this time last year.

Martin Tuček
Partner

PRACTICAL APPLICATION OF CHANGES IN DEPRECIATION OF FIXED ASSETS

As of 1 January 2021, an amendment to the Income Tax Act entered into force, which brought three basic changes in the area of fixed assets - an increase in the acquisition price of tax-depreciated tangible assets, the possibility of extraordinary depreciation and the abolition of the definition of tax-depreciated intangible assets.

All three changes are valid from the effective date of the law, but according to the transitional provisions we can use these changes for the tax period of 2020, for assets acquired from 1 January 2020. Acquisition means putting the assets into use according to accounting regulations, ie the moment, when the property was actually used in the course of business. The state therefore provides business entities with

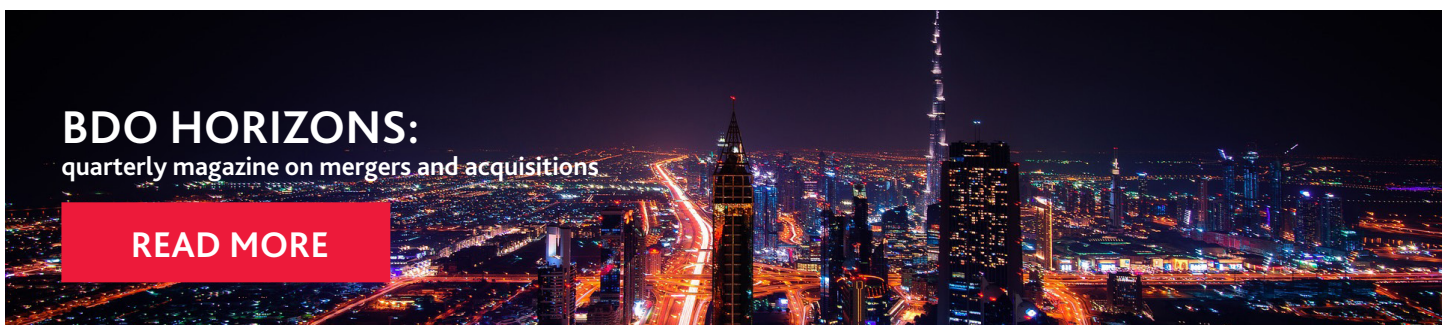
partial compensation of losses, which they have due to the closure of part of the economy, in the form of the possibility to reduce the income tax base by applying higher investment expenditures or their faster tax depreciation. Let's get acquainted with the tax and accounting context.

The first change concerns the entry price of fixed assets. The amendment to the law increased the **entry price limit for tangible fixed assets** from CZK 40,000 to CZK 80,000. The entry price limit is also increased for the technical improvement of these assets. This change will be welcomed by most companies and entrepreneurs, as the possibility to apply the expenditure on the acquisition of fixed assets with a lower acquisition price directly as a tax deductible expense is expanding. The increased limit of the tax input price will also mean an adjustment of accounting procedures in companies. I also recommend increasing the entry price limit in accounting for the category of „large“ assets, where tax and accounting depreciation are different. This will create a wider space for the category of „small“ depreciated assets, where the accounting depreciation is also a tax expense. In this context, it is necessary to amend the in-house directive on fixed assets. Given the possibility of applying the amended tax rules from the tax period of 2020, companies and entrepreneurs who apply these rules retrospectively must also logically amend the directive for the just ended accounting period. This will therefore be possible for small and medium-sized entities rather than for companies that provide their financial results to a bank or report them to parent companies. Changes should be made in compliance with the principle of consistency of accounting methods. The change in the amount of the threshold for the classification of individual categories of tangible fixed assets must be commented on in the notes to the financial statements.

The second change concerns the reintroduction of **extraordinary tax depreciation**. Extraordinary depreciation relates to assets included in the first and second depreciation groups, which were acquired in the period from 1 January 2020 to 31 December 2021. Therefore, it includes the majority of machinery. Extraordinary depreciation can only be used by the first owner of the asset. Extraordinary depreciation is for a specific time **that cannot be interrupted and is calculated to the nearest month**. Assets included in the first depreciation group are depreciated over 12 months and assets included in the second depreciation group are depreciated over 24 months. Depreciation is uneven over time, depreciation of up to 60% of the entry price of assets is applied for the first 12 months and the remaining 40% of the entry price for the second 12 months. Extraordinary depreciation is a tool only for tax optimization. It is not possible to use such rapid depreciation for accounting. In accounting, the depreciation plan must be set to correspond to the actual use of the assets in generating revenue. When deciding on the use of extraordinary depreciation and thus a significant reduction in the tax base, it is necessary to realize that the asset will very quickly have zero residual tax value, which will affect the taxpayer's tax liability in subsequent years due to lower tax depreciation or at the time of sale.

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Just as it is possible to accelerate the tax depreciation of assets, it is also possible to **shorten the lease period for the financial leasing of fixed assets**. In the past, the condition was set that in the leasing contract the lessor must confirm that he will use extraordinary depreciation for the given asset. **The Financial Administration has already admitted that, according to the new wording of the Act, the lessor's obligation to use extraordinary depreciation is not so strictly required.** In the past, the Coordination Committees of the Chamber of Tax Advisers of the Czech Republic, the Ministry of Finance of the Czech Republic and the GFR addressed the issue of extraordinary depreciation, including the lease term, where a number of controversial questions and their acceptable solutions were answered. The Financial Administration confirmed that the conclusions from these coordination committees are also valid for the extraordinary depreciation required by this amendment to the Act. For example, it is possible to change the leasing contract for a shorter period without violating the conditions for tax deductibility of financial leasing.

The third change concerns **intangible fixed assets**. As of 1 January 2021, this category ceased to exist in the Income Tax Act. Definitions and specific depreciation rules have been completely deleted. However, intangible fixed assets still exist in accounting as a category of long-term usable and thus depreciated assets. At the same time, the amount of the acquisition price for the classification and depreciation of intangible fixed assets is still decided exclusively by the entity. Accounting is intended to show a true and fair view of its subject matter, which is why it is necessary to consider setting a threshold for the input price for long-term intangible assets, as well as the length of their depreciation. For different types of intangible assets, it is possible to set the acquisition price and the depreciation period differently. If in the accounting the intangible fixed assets will be included and depreciated in the assets, then the accounting and tax depreciation are the same. One option is to choose a classification threshold of CZK 80,000 as for tangible assets.

In the case of long-term tangible and intangible assets included before the amendment to the Act, resp. before the first period in which this amendment is applied by the accounting entity, the original wording of the Income Tax Act shall be followed. This also applies to intangible assets for the expenditure limit for all subsequent technical improvements. A new limit of CZK 80,000 will apply to technical improvements to tangible assets.

The financial report confirmed that all these tax changes can also be used by taxpayers who account in the financial year and have already filed a return for part of 2020. In these cases, it is necessary to file an additional tax return. Applying extraordinary depreciation in an additional tax return if the financial year ended during 2020 or in a tax return for taxpayers with a balance sheet date of 31 December 2020 is not very demanding. A change in accounting procedures and a change in the amount of the acquisition price decisive for the inclusion of a fixed asset in assets will probably be made by companies and entrepreneurs

for purely practical reasons only in the period of 2021.

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ADDITIONAL ASSESSMENT OF TAX AS A PRELUDE TO CRIMINAL PROCEEDINGS

Risks in the area of taxes continue to increase unnoticed in the Czech Republic. Tax assessment does not have to end with the additional assessment of the tax. This is evidenced by the fact that the Financial Administration sent an initiative to law enforcement authorities to initiate criminal proceedings on average for every third inspection that ended in a tax assessment or reduction of a tax loss. We would find a much higher ratio if we included only those inspections in which the tax was increased in excess of the tax crime. These are figures resulting from the available data of the Financial Administration, while in 2016 the ratio was halved. **It is evident that the tax administrator actively submits motions to initiate criminal proceedings in the matter of taxes and thus reports thousands of cases annually.**

Although many taxpayers do not admit that they may be affected by the criminal law level of tax assessment, the opposite is true. The current limit of the crime of reducing taxes, fees and similar mandatory payments is 100,000 crowns. In practice, it may be one or more documents with a total value of less than 500 thousand crowns, which were challenged within a VAT control with a subsequent assessment of, for example, unauthorized tax deduction. In such a case, the financial administration may forward the complaint to the law enforcement authorities. However, it is not true that any additional tax assessment or loss reduction meets the characteristics of the crime of tax reduction.

Czech law classifies tax crimes among intentional crimes. In practice, this means that the person intentionally committed the act or knew that his actions could cause the violation. The line between intent and negligence is often thin and unclear. Although the tax administrator states that he has developed an internal methodology for assessing intentionality, as one of the basic preconditions for a tax crime, from the high number of submitted complaints we can perceive the effort to leave decision-making on criminal law to law enforcement authorities. We are noticing a significant shift in understanding the difference between a mistake in tax obligations and an intention to reduce tax. In the light of the above, the often quoted phrase „should and could have known“ becomes more important in tax audits. Where does the mistake end and the intention begin? Is a formal error in completing an application for support during the COVID-19 pandemic only negligent, or is it a deliberate attempt to attract funds from the state budget? What steps can a taxpayer take to ensure that he or she does not become part of a VAT fraud?

Doing Business Guide
Guide to doing business in the Czech Republic

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The transmission of a complaint to the law enforcement authorities does not automatically mean proof and conviction in a tax crime. High financial costs in the event of litigation, breaches of credibility in relations with business partners and significant brand damage for customers are the consequences of lack of caution and prevention. Our recommendation is always to establish such internal procedures and control processes so that the risk of intentional and unintentional fault is minimized and evidence is also available to confirm this. Determining internal control procedures when selecting and verifying a new business partner is a process that should also be consulted with a tax advisor. Another way to reduce the risk is not to underestimate the course of the tax audit and to pay increased attention to the translated and proposed means of proof. It is never certain whether the tax control will be transferred, with the active participation of the tax administrator, to the criminal law level.

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ESEF - A NEW OBLIGATION FOR LISTED COMPANIES

From 1 January 2020, issuers listed on EU regulated markets must prepare and publish their consolidated financial statements in the so-called European Single Electronic Format (ESEF). Specifically, this means that they will have to publish their annual reports in XHTML format. Furthermore, companies that prepare consolidated financial statements in accordance with IFRS will have to tag them using the XBRL format.

The aim of the ESEF is to unify consolidated financial statements within the EU and also to simplify their preparation. The individual parts must therefore be accurately marked using the XBRL taxonomy for International Financial Reporting Standards (IFRS) and published using the XHTML format (the link is referred to as iXBRL). The entire output must be machine readable and fully conform to the defined format. The introduction of the ESEF itself will have an impact on internal processes in companies and the subsequent elaboration of documents. And not only that, but compliance with the requirements of ESMA (European Securities and Markets Authority) will be subject to verification by an auditor, who will also expand the scope of work related to the financial reporting process.

An important principle of the entire ESEF is valid marking according to defined tags and subsequent export to XHTML format (Extensible HyperText Markup Language). This format is commonly used and can be opened using any standard web browser. The individual parts in the annual report will then be marked with XBRL tags. This will allow the user to easily search for the annual report and also analyze the content of the annual report through various tools. Another great advantage of such tagging is language independence, thanks to which it will be

possible to compare numerical data in the financial statements of different companies in different languages.

The European Securities and Markets Authority has developed an [ESEF Reporting Manual](#) and issued a set of ESEF taxonomy documents to assist companies in preparing. I expect these guidelines to be updated in the coming years based on practical experience.

I see as the biggest risk that it is necessary to adjust the existing processes of the companies so that it is fully realistic to deliver the outputs according to the requirements in the required time. The preparation of financial statements and annual reports takes a lot of time and approval, and a new labeling obligation is now being added. The processing itself will not take several hours, but rather days.

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MARK IN YOUR CALENDARS: EVENTS AND WEBINARS

BDO offers you a wide range of training on topics related to tax news, legislative changes and the possibility of using technology to your advantage. We are also preparing further training with our external partners. Join the training online and securely. You can complete the training anywhere from your computer or mobile device.

WEBINAR BDO: FINANCIAL PROCESSES AND THEIR AUTOMATION: THERE IS A ROBOT IN THE OFFICE

▶ 5. 3. 2021 a 16. 3. 2021

We will introduce you to the digitization of business processes (BPA) and RPA (Robot Process Automation), technology or software robots or virtual assistants. New technologies are gradually changing the way we understand office work, and they free up the resources you need for more skilled work connected to automated RPA and BPA environments.

Lecturers

- ▶ Tomáš Kubíček, Partner
- ▶ Ondřej Beránek

WEBINAR BDO: TAX CHANGES AND EXPERIENCE OF 2021 IN A NUTSHELL

▶ 19. 3. 2021

The year 2021 brings us many tax changes and news. We invite you to the BDO professional webinar, where we will clearly summarize the basic news and changes related to corporate income tax, tax returns, tax code changes, and compensation associated with the COVID-19 pandemic.

BDO CORPORATE TAX NEW
Global tax newsletter

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Together we will discuss the most important impacts of legislative changes in the field of taxes in 2021 put into practice, our experience and recommendations for you.

Lecturers

- ▶ Martin Tuček, Partner
- ▶ Jan Tuček, Tax Advisor
- ▶ Michaela Srpová, Tax Manager

WEBINAR BDO: THE MONEY LAUNDERING ACT AND ITS AMENDMENTS FROM 2021

- ▶ 24. 3. 2021

The Act on Certain Measures against the Legalization of Proceeds from Crime and the Financing of Terrorism, or the AML Act, has undergone a major amendment and has introduced new obligations from 2021. Join our online seminar, where we will introduce you to the changes and new issues that the amendment brings. We will discuss the individual obligations that are newly imposed on liable persons as a result of this change. We will also describe recommendations on how to implement them in practice and what procedures can be expected from the regulator after the changes.

Lecturer

- ▶ Stanislav Klika, Director – Risk Advisory Services

WEBINAR BDO: WHISTLEBLOWING AND NOTIFIER PROTECTION: OBLIGATIONS AND IMPLEMENTATION

- ▶ 15. 4. 2021

We cordially invite you to a webinar, where we will introduce you to the new obligations regarding the introduction of channels for reporting infringements and the protection of whistleblowers. As part of the training, we will explain to you what the new obligations mean in practice and we will propose an effective solution for managing them without the threat of sanctions. We will also describe how to make the best use of these new responsibilities for the benefit of the company and how to obtain information on risks or even fraud and how to respond to them in a timely manner.

Lecturer

- ▶ Stanislav Klika, Director – Risk Advisory Service

WEBINAR BDO: CONTINUOUS MONITORING AND ITS PRACTICAL USE

- ▶ 20. 5. 2021

The concept of continuous auditing consists in the continuous monitoring of selected areas or processes and their ongoing analysis. In this webinar, we will introduce you to the possibilities of streamlining inspections and ongoing audits using technology to automate the control of irregularities and real-time data verification in a 100% sample.

At the webinar, you will learn how to better understand the potential risks by automatically checking large amounts of data, how to streamline internal controls, all efficiently and without the need for a large budget.

Lecturer

- ▶ Stanislav Klika, Director – Risk Advisory Service

WEBINAR BDO: GDPR IN ACCOUNTING, FINANCIAL STATEMENTS AND TAXATION: FROM IMPLEMENTATION TO PRESENT DAY

- ▶ 9. 6. 2021

The General Data Protection Regulation (GDPR) has been in force for almost 3 years. What has changed in that time and what have we learned? We invite you to a webinar, where we will introduce you to important experiences, lessons learned, and common problems that have occurred with the implementation of GDPR in companies since its introduction. We will present them for specific examples with suggestions for the process of solving and taking corrective actions.

Lecturer

- ▶ Stanislav Klika, Director – Risk Advisory Service

IN COOPERATION WITH 1. VOX A.S.

WEBINAR 1. VOX A.S.: E-COMMERCE: NEW RULES FOR THE IMPORTATION OF SMALL SHIPMENT GOODS, FOR THE SHIPMENT OF GOODS AND FOR THE PROVISION OF ELECTRONIC SERVICES TO END CUSTOMERS IN THE EU FROM 1.7.

- ▶ 13. 4. 2021

- ▶ 4. 6. 2021

You will get acquainted with significant changes in VAT not only for sending goods to final consumers both within the EU and from third countries for shipments of small value up to 150 EUR. You will also learn about other parts of this amendment. On specific examples, we will present the new VAT regimes from 1 July 2021 for the shipment of goods.

Lecturer

- ▶ Petr Linx, Tax Manager

WEBINAR 1. VOX A.S.: PARTIAL ENTITLEMENT TO DEDUCT VAT AND RELATED ADJUSTMENTS TO ACQUIRED PROPERTY

- ▶ 7. 5. 2021

On specific examples, you will deepen your knowledge regarding the exercise of the right to deduct VAT, both in full and, above all, in part. You will be able to discuss problematic examples with the lecturer and other participants.

Lecturer

- ▶ Petr Linx, Tax Manager

IN COOPERATION WITH CZECH INSTITUTE OF INTERNAL AUDITORS (ČIIA)

WEBINAR ČIIA: CAMERA SYSTEMS AUDIT (CCTV)

- ▶ 5. 3. 2021

The aim of the seminar is to acquaint participants with the main steps in the audit of camera system (CCTV) settings. Participants will receive practical tips on how to proceed with a CCTV audit. They will get acquainted with the requirements of GDPR for the setting and operation of cameras, including the requirements for security and CCTV documentation.

Lecturers

- ▶ Stanislav Klika, Director - Risk Advisory Services
- ▶ Jakub Matějů, Junior Audit Manager

WEBINAR ČIIA: AUDIT GDPR

- ▶ 5. 3. 2021

Participants will be introduced to the legal framework for the protection of personal data. They will acquire skills for the preparation and successful implementation of a GDPR audit.

Lecturer

- ▶ Stanislav Klika, Director - Risk Advisory Services