

VK&t

NEWSLETTER

1/2015

Dear clients,

in this newsletter we shall provide you with the summary of fundamental changes in different areas of law, which we feel are significant for the beginning of 2015.

- I. Civil and commercial law
- II. Labour law
- III. Tax law
- IV. Other

Despite the fact that the new civil code (Act No. 89/2012 Coll.) had been in effect only since December 31, 2014, the **Ministry of Justice is already working on major novelization of this code**. First part of the work document includes valid wording of the civil code with the proposed changes—and it covers the first 1–449 paragraphs and the most problematic areas of family and inheritance law. It also provides for new complex regulation of consumer protection law. The Ministry of Justice opened a professional discussion about the proposed novelization, which can be found at www.obcan.cz. The proposed effective date is as of January 1, 2016.

As of January 1, 2015 the rule of material publicity for the Cadastral Registry (Section 984 NCC) and the presumed correctness of registered data (Section 985 and 986 NCC) will commence to fully apply pursuant to Section 3064 NCC. This rule protects good faith of a buyer who acquires property from a party registered as the owner in the Cadastral Registry, while the true owner of the property is a different party (i.e. the registered legal status does not correspond to the factual status of ownership). Furthermore if a right had been deleted from public register, it is presumed that it ceased to exist. The above rule will provide for protection of good faith in truthfulness and completeness of entries in public registers and at the same time it is aimed to force the owners of real estate properties to tend for the correctness of registration of their rights in Cadastral Registry.

According to the Governmental Decree No. 204/2014 Coll., on minimum wages, effective as of January 1, 2015, the minimum hourly rate set for 40 hour working week is increased to CZK 55 (previously CZK 50.60 per hour), respectively CZK 9,200 per month (previously CZK 8,500 per month). The new minimum rates shall apply to all types of employment contracts.

Novelization of the Act No. 182/2014 Coll., the Employee Accident Insurance Act, **postponed the effective date for the application of new legislation for the employee accident insurance by two years** till January 1, 2017.

On January 1, 2015 the first part of the Act No. 136/2014 Coll., which amends the Act No. 435/2004 Coll., Employment Act, came into effect. One of the major changes is the introduction of sanctions which can be imposed to employers provided they will not have available at the working premises copies of documentation proving the existence of the working relation. Newly, the administrative bodies will be able to apply sanctions up to CZK 500,000.

As the January 1, 2015 the following important changes came to effect.

Expenditure tax tariffs for entrepreneurs

A maximum income limit allowing the application of expenditure tax tariff is introduced also for 60% and 80% expenditure tax tariffs. The maximum income limit is set at CZK 2,000,000 for all tariffs. Entrepreneurs in the area of agriculture, handicraft, woodland and water will be able to apply as expenditure sum the maximum of CZK 1,600,000 and other entrepreneurs will be able to apply CZK 1,200,000. Percentual rates for tariffs remain unchanged, as well as general possibility to account for real expenditures without any limitations.

Possibility for individual pardon of default tax fixtures

The legislation returns the possibility for pardon of selected monetary sanctions (such as penalties, default interest) provided these arise after January 1, 2015. Condition precedent being due payment of the relevant tax to which the sanction applies. The tax authority may pardon the payment up to 75% of the sanction and up to 100% of default interest. The tax authority will base its decision on the cooperation of the tax payer and existence of justifiable reasons why the default in tax payment occurred.

Filing, which must be executed electronically

As of January 1, 2015 the number of filings which must be executed electronically—via data box or EPO portal—increases. The duty to make electronic filing newly arises in the following conditions are met:

- in case of form applications—application for tax registration, change of registration details, tax filing, notification, accounting data, additional tax forms, and at the same time
- the applicant (or its representative) has a data box.

The law furthermore sets rules in case the electronic format is not followed, including sanctions.

So-called rate novelization of VAT Act

The novelization introduces lower VAT rate of 10% and cancels the unitary 17,5% VAT rate (which should have been applicable as of January 1, 2016). The 10% VAT rate will apply to goods defined by Schedule No. 3a of the VAT Act—such as books, drugs and baby nutrition. The 21% and 15% VAT rates remain unaffected.

Inspectional Reporting (effective date as of January 1, 2016)

Mechanism for inspectional reporting is based on principle that the tax payers will provide to tax authorities prescribed information and data relevant for tax administration. Inspectional reporting will be executed only electronically and will not be tied with tax filing. It will be provided always within 25 days after the elapse of relevant calendar month.

Shift of responsibility of tax liability

Under this regime the obligation to admit VAT is shifted from the provider of services/goods to the receiving party. So far this regime had been used only for delivery of certain waste or provision of constructional services. In light of the EU legislation, this obligation is furthermore shifted under **Governmental Decree No. 361/2014 Coll.**, which lists concrete category of goods and services for which the regime of shifting the tax liability will apply—for delivery of mobile phones, integral circuits, video consoles, transportable equipment for data processing, cereals and technical crops, raw or semi-raw metals (including precious metals), provided the total sum of the tax base of such services/goods exceeds the sum of CZK 100,000.

Limit CZK 1,000,000 for mandatory registration as VAT payer

The income limit of CZK 750,000 set for mandatory registration as VAT payer by the Act No. 502/2012 Coll., which was to be effective as of January 1, 2015—had been cancelled. Therefore the income limit of CZK 1,000,000 set for mandatory registration as VAT payer remains further effective. Voluntary registration as VAT payer is not prevented.

Novelization of legislation limiting cash payments—newly defines as payment any handover or transfer of money save for statutory set exceptions. The novelization furthermore lowers the amount above which the payment must be made by bank transfer from the existing CZK 350,000 to CZK 270,000. It also imposes a new statutory obligation of the receiving party to refuse payments made in cash in case they exceed the statutory set limit.

Due to novelization of Trade Act the trade register will no longer publicly list the addresses of the entrepreneurs—these will be accessible only in the non-public part of the trade register. Data concerning entrepreneurs, who terminated their activities more than 4 years ago, will be also deleted from the publicly accessible part of the trade register. It will also no longer be necessary to submit to trade register certain documentation which the authorities received previously—prove for professional experience of the applicant, consent with registered seat and extract from criminal register.

Effective date for new Public Service Act, which cancels the preceding Public Service Act No. 218/2002 Coll., which did not come into effect. The new Public Service Act regulates the employment of state employees and related issues as well as their organisational structure.

We believe that the above summary will allow you better orientation in the new law. We are available for all your requests for any additional information.

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