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NEW PENSIONS CALCULATION

In Tax News No. 7/2011, we briefly informed you that the President did not sign what is known as small pension reform, which was to reduce the limits for calculating pensions and increase the retirement age. The President's veto, however, was subsequently voted down by the Chamber of Deputies and the amendment was adopted and published under No. 220/2011, Coll.

The newly adopted amendment to the Pension Insurance Act introduced changes in determining the calculation base, which is crucial for calculating old-age and disability pensions, and also brought other changes aimed at ensuring that the pension system is financially sustainable in the future.

Calculation Base

The existing base for calculating pensions is based on two reduction limits ("RL"). Since 1 January 2001, the first RL and the second RL amounted to CZK 11,000 and CZK 28,200, respectively. To determine the calculation base, the average monthly assessment base of the insured shall be applied as follows: in full up to the first RL; 30% of the amount above the first RL up to the second RL; and 10% of the amount exceeding the second RL.

From 30 September 2011 until the end of 2014, three reduction limits shall be applied when determining the calculation base. The sums of the reduction limits applicable from 30 September 2011 shall amount to CZK 10,886, CZK 28,699 and CZK 98,960 for the first, second and third RLs, respectively. The average monthly assessment base of the insured for determining the calculation base shall then be applied as follows: in full up to the first RL; 29% of the amount above the first RL up to the second RL; 13% of the amount above the second RL up to the third RL; and 8% of the amount exceeding the third RL. From 2012 through 2014, the above-stated percentages applicable to the assessment base which exceed the first RL shall be reduced.

Starting in 2015, a different and assumed to be final regulation shall apply, namely there shall be only two reduction limits. From the

average assessment base of the insured, the following shall be applied: 100% of the amount above the first RL up to the second RL; 26% of the amount above the first RL up to the second RL; and the amount exceeding the second RL shall not be taken into account.

The amounts of the reduction limits shall follow from the average wage as of 30 September 2011. The average wage shall be published by the Ministry of Labour and Social Affairs in its official decree.

In comparison with the current regulation, the new regulation reduces the assessment base, which in turn reduces the amounts of pensions for insureds with monthly income (i.e. assessment bases for the payment of insurance contributions) between approximately CZK 11,000 and CZK 34,000. For persons with income amounting up to CZK 11,000, pensions shall not be reduced by the new legal regulation. In the case of persons with income amounting to more than CZK 34,000, however, pensions shall be increased in comparison with the current regulation, which is in compliance with a requirement of the Constitutional Court following its request that the relation between the insurance contribution paid and the amount of the pension be strengthened.

Other specific changes

- Starting in 2012, the basic pension shall be assessed in the amount of 9% of the average wage. In each calendar year, such fixed amount shall change depending on the amount of the average wage published by the official decree of the Ministry of Labour and Social Affairs. To date, the basic pension assessment was determined by law as a fixed amount.
- The rate at which the retirement age shall increase is being accelerated until the retirement age of men and women is fully unified (67 years). Thereafter, it is planned that the retirement age will be gradually increased without a specific age limit having been determined. A summary of the retirement age for insureds born between 1936 and 1977 constitutes an annex to the amendment.



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- The decisive period from which the pension assessment base is ascertained, which is currently 30 years, has been gradually increased. The period from the year following the year when the insured reaches 18 years of age until the year preceding the year when the pension was recognized shall now constitute the decisive period.
- Newly, the percentage of the early retirement pension assessment has been set.
- Starting in 2012, in cases where an executive of a private limited company is simultaneously a participant of such company, he/she shall participate only once in the pension insurance scheme applicable to such activities. To date, such activities were assessed separately to establish participation in the insurance scheme.

FROM THE CHAMBER OF DEPUTIES

On 2 September 2011, the Chamber of Deputies approved in its third reading an amendment to the VAT Act. The amendment will now be discussed by the Senate.

In addition to the changes in VAT rates which we informed you about in Tax News No. 6/2011, further changes were adopted by proposed amendments. We consider the most important changes to be the expansion of the liability for unpaid tax, the change of the regulation concerning collective corrective tax documents, and the regulation concerning the Specialized Financial Office pursuant to the Act on Territorial Financial Authorities, all of which have been introduced by the amendment to the VAT Act.

Liability for unpaid tax

The recipient of a taxable supply is now also liable for the unpaid tax in the event the consideration for the received supply has been provided to the supplier (payer) by an interbank transfer to the account administered by a payment services provider outside the Czech Republic. This regulation, however, does not apply to

situations where the recipient of the supply is obliged to assess the tax.

Collective corrective tax document

The changes concerning collective corrective tax documents mostly apply to the particulars of such documents. Instead of individual registration numbers on corrected tax documents, the amendment allows such documents to be specified in such a manner that the original supply can be identified unambiguously. The amendment allows the taxpayer to state the difference between the corrected and the original tax base and the corrected and the original tax as a collective amount. In the event that the original supply was provided in a foreign currency, a unified exchange rate can be used, i.e. the exchange rate of the Czech National Bank applicable on the first business day of the relevant calendar year.

Specialized Financial Office

The regulation of the Specialized Financial Office is included in the Act on Territorial Financial Authorities. All changes in this area are in compliance with the reorganization of the tax administration (Financial Administration as of 2012).

The Specialized Financial Authority has its registered office in Prague and the authority is competent only for selected entities. The amendment to the act considers the following to be selected entities:

- legal entities established for the purposes of doing business, whose turnover exceeds CZK 2 billion;
- savings- and loan-providing cooperatives;
- banks, insurers, reinsurers and foreign branches thereof; and
- group members pursuant to the VAT Act, provided at least one group member is a selected entity.

NEW INTERNATIONAL AGREEMENTS

Parliament is currently discussing four Double Tax Treaties ("Treaties"), principally the Treaties with the Kingdom



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of Bahrain and Hong Kong, which were executed in May and June of this year. The Treaties concluded with Denmark and Poland were added to the former Treaties in September. It is estimated that the Treaties will become effective in 2012 or 2013.

The Treaties set forth, *inter alia*, the maximum tax rates to be paid on income in the source state, e.g. income from dividends, interest or license fees. Such rates, depending on the type of income, are set at 0 to 15%.

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