

## Transformation Act

**Act on transformation of commercial companies and cooperatives (“Transformation Act”)** takes effect from 1 July 2008. This new, comprehensive legislation applicable to commercial companies and cooperatives shall replace and supersede current provisions of the Commercial Code.

Due to adoption of the Transformation Act, **another Act amending certain other acts** also takes effect from 1 July 2008. This new amending Act shall impact the accounting and tax laws referred to below.

An amendment to the Accounting Act responds to the new legislation applicable to the said transformations and provides greater detail on how to determine the beginning of the accounting period for companies established through spin-offs.

An amendment to the Tax and Fee Administration Act introduces the obligation to request the tax authority for consent on transformation of a commercial company or cooperative. Such consent will have to be submitted to the Commercial Register.

An amendment to the Income Tax Act addresses cross-border mergers, evaluation of contributions involving both tangible and intangible assets from abroad to the Czech Republic and relocation of tangible and intangible assets from abroad to permanent establishments in the Czech Republic.

Cross-border mergers have resulted in an amendment to the Value Added Tax Act that applies the duty to become a VAT payer in the event of a cross-border merger.

## Information from the Ministry of Finance

The Ministry of Finance of the Czech Republic published **information on**

**application of the VAT Act to the construction industry after 1 January 2008** to its web site on 23 April 2008. The document introduces the Ministry’s interpretation of the terms used in the VAT Act in connection with taxation of construction work and also provides information on how to tax construction, transfers and leases of land, structures, apartments and non-residential premises. The information applies to legislation effective since 1 January 2008.

## Draft Amendment to the VAT Act

Pursuant to our information in the previous issue of *Tax News*, the Government presented a draft VAT Act to the Parliament of the Czech Republic. This long-prepared amendment primarily harmonizes the provisions of the Czech VAT Act with the provisions of Directive 2006/112/EC (the so-called Sixth Directive Recast) and provides suggestions for simplification and improvement of certain other provisions.

The most significant changes are as follows:

- The tax may be reduced if the taxpayer applies a wrong rate or tax exemption.
- Adjustment to definition of turnover – the operating business should be the decisive criterion for inclusion into turnover and not the manner of accounting on a particular transaction.
- The accounting terms “revenue” and “income” should be replaced by the term “fee” (or “consideration”) due to the said adjustment to definition of turnover.
- The place of supply for services to foreign parties operating a business (i.e. not only an entity registered for tax in another member state) should be determined pursuant to the registered office or principal place of business of the recipient of the service.



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- The amendment suggests that rules for calculation of the factor reducing the input tax deduction be changed.
- The date of taxable supply for real estate transfers should be changed to the date on which the real estate is released to the transferee.

The amendment should take effect on 1 January 2009.

### Award by Constitutional Court

The Collection of Acts No. 166/2008 includes an award by the Constitutional Court dated 23 April 2008 cancelling the provisions of the Employee Health Insurance Act that award sickness allowance to employees after the fourth day of sickness, effective as of 30 June 2008. The sickness allowance should be newly paid out beginning the first day of the sickness.

### Prepared Draft Acts

The House of Representatives (Lower House) approved an amendment to the Road Tax Act. The amended provisions should result in reduction of road tax rates for vehicles over 12 tons used as new for businesses that are more environmentally friendly. The lower rate should apply for 36 months following the first registration.

The House of Representatives (Lower House) suspended discussion on the proposed amendment to the Income Tax Act which should have cancelled the inclusion of employers' contributions for employee catering into tax efficient costs.

The House of Representatives (Lower House) received a government draft act on pension insurance and organization and implementation of social security. Pursuant to the draft, the time period for insurance

should be extended and time spent in study at secondary schools and universities should no longer be acknowledged as substitute time. The retirement age should be extended to 65 years for men and women having 0-1 children. The draft also defines the so-called semi-retirement under which the individuals involved should receive one half of their pension and the percentage for other gainful activity should be simultaneously increased.

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