

## JULY 2009 (No.5)

### Announcement of the Ministry of Finance

Page 1

Application of tax base relief for refinancing of mortgages  
Allocation of an EORI number for trades with third countries

### News in legislations

Amendment to VAT Act – reduced rates for restaurant services  
Amendment to flat tax-deductible cost on transport

Page 2

Amendment to flat tax-deductible cost for natural person - entrepreneur  
Amendment to the extraordinary amortization of property

Page 3

Amendment to Act on Social Security - discounts on insurance  
Data mailbox

### Judicatory

Page 4

European Court of Justice comments on interpretation of services of cleaning common areas of rental housing



#### Prague Main Office

Jungmannova 24, 110 00 Prague, Czech Republic  
tel.: +420 / 224 103 316, facsimile: +420 / 224 103 234  
e-mail: ksbpraha@ksb.cz

#### Karlovy Vary Office

Na Vyhliďce 53, 360 21 Karlovy Vary, Czech Republic  
tel.: +420 / 353 225 996, facsimile: +420 / 353 227 781  
e-mail: ksbkv@ksb.cz

#### Ostrava Office

Československá 7, 702 00 Ostrava, Czech Republic  
tel.: +420 / 553 030 511, fax: +420 / 553 030 512  
e-mail: ksbostrava@ksb.cz

### ANNOUNCEMENT OF THE MINISTRY OF FINANCE

#### Communication from Ministry of Finance, Division 15, of 15 June 2009, on application of tax base relief for refinancing of mortgages

The Ministry of Finance (MF) published an approach for interpreting a statement under section 15(3)(h) of statute No. 586/1992 Coll., Income Tax Act, that allows amounts of interests paid on mortgage payments to be deducted from the tax base. The MF set forth that this statement cannot be applied for interest paid on refinancing of an original loan. In compliance with the opinions of the MF's magistrates, the interest paid on refinancing of a mortgage cannot be claimed as a non-taxable in calculation of the tax base.

#### Communication from the Customs Administration Office dated 5 June 2009

The Customs Administration Office published a warning that all tradesmen doing business with third countries, meaning non-EU member states, are obliged to keep a unique EORI reference number for their trades with the third countries, to be allotted by the Customs Administration Office. Unique EORI numbers have been already allocated to the majority of Czech businessmen on the basis of records of the Customs Administration Office. Those who wish to trade with third countries and have not yet been allocated an EORI number should request a domestic customs office for allocation of a number.

### NEWLY SUBMITTED BILLS

#### Amendment to VAT Act – reduced rates for restaurant services

On 12 June 2009 the Chamber of Deputies held a first reading of the governmental draft amendment to the VAT Act (Parliamentary publication no. 801) pursuant to which certain activities would be included in Annex 2 to the VAT Act as services subject to a reduced VAT rate. Repairs of bicycles, clothes and soft furnishing, hairdressing and barber services, restaurants services, excluding supply of tobacco products and serving of

alcoholic drinks, should be included under the reduced VAT rate. This amendment becomes effective from the date of publication. Further developments of the amendment will not be known until after the Chamber of Deputies meet in September.

### AMENDMENTS DISCUSSED IN CHAMBER OF DEPUTIES

#### Amendment to Act on Administration of Taxes and Fees and Income Tax Act - flat tax-deductible cost on transport

On 10 June 2009 the Chamber of Deputies approved an amendment to the Act on Administration of Taxes and Fees (Parliamentary publication no. 387/0), to which an amendment of the Income Tax Act was additionally appended. The amendment of the Act on Administration of Taxes and Fees imposes the duty on a tax authority to state reasons for their decisions and simultaneously introduces deferment for payment of additionally-assessed tax should an appeal be raised. Concurrently the provision of section 47 of the Act on Administration of Taxes and Fees was amended pursuant to which deadlines were set for assessment of tax. The newly amended change responds to the most recent case law of the Constitutional Court and sets forth the assessment of tax, preparation of an additional tax assessment or recognition of a claim to tax deduction shall not be possible after expiration of three years following the end of the tax year pursuant to which the tax liability arose (currently connected with submission of the tax return). The proposed date of effect was changed at the last minute during the third reading of the amendment. The changes to the Act on Administration of Taxes and Fees shall not take effect until 1 January 2010.

Pursuant to the amendment to the Income Tax Act, a flat tax-deductible transport cost in the amount of CZK 5000 per month can be applied to a road vehicle used for business purposes. If the vehicle is partly used for purposes other than achieving, securing and maintaining taxable income, only 80% of CZK 5000 per month can be

applied as a tax-deductible transport cost. This flat tax-deductible cost can be applied starting from 2009.

This draft amendment to the Act on Administration of Taxes and Fees and Income Tax Act shall now be submitted for approval to the Senate and then it will have to be signed by the President.

### **Amendment to Income Tax Act – flat tax-deductible costs for natural person-entrepreneur**

On 19 June 2009 the Chamber of Deputies passed an amendment to the Income Tax Act pursuant to which the flat rates of tax-deductible costs for natural person-entrepreneurs were increased. The former flat rate of 60% for small trades has been newly increased to 80%. For revenue arising from other business activities besides small trades, the former flat-rates of 40% and 50% have been newly increased to the single flat-rate of 60%. This amendment to the Income Tax Act was attached to the draft Compulsory Labelling of Alcohol Act (Parliamentary publication no. 515). The Chamber of Deputies approved the draft Act so that it could already be used for 2009. This change must be approved by Senate and then be signed by the President.

### **New Tax Regulations**

On 17 June 2009 the Chamber of Deputies approved a new Tax Regulations in its third reading. The originally proposed date of effect was changed during discussions from 1 January 2010 to 1 January 2011. The new Tax Regulations is to be discussed in Senate and should replace the many times amended Tax Administration Act.

### **AMENDMENT TO VARIOUS ACTS APPROVED BY THE SENATE**

#### **Double amendments of Income Tax Act:**

#### *a) extraordinary depreciation*

The Senate approved two separate amendments to the Income Tax Act that contain the same provisions. First it passed the governmental draft amendment to the Income Tax Act pursuant to which extraordinary amortization for 2009 and

2010 of property classed in the first and second depreciation group (for example cars and computers) was classified into law. Similar amendments were made simultaneously to tax-deductible costs of lease payments under financial lease contracts. Thereafter Parliament approved the draft Act on Promotion of Economic Growth and Social Stability, in which thirteen amendments to various regulations, including an amendment to the Income Tax Act, are contained. The same provision of extraordinary amortization and tax-deductible costs for lease payments, which has been approved in the governmental draft amendment to the Income Tax Act, appears here as well. This situation where the same matter, i.e. extraordinary depreciation, has been approved in two different legal acts is very non-standard.

#### *b) car scrappage bonus*

From other amended regulations contained in the Act on Promotion of Economic Growth and Social Stability, it is appropriate to draw attention to the amendment to the Act on Waste. This amendment is part of the thirteenth amendment pursuant to which individuals who do not have income from business or other self-employment and are not registered for, or subject to VAT, shall receive a state contribution for the disposal of an old car (scrappage bonus). The state contribution is set at CZK 30 000 for purchase of a new vehicle, the cost of which does not exceed CZK 500 000 and meets the statutory emission limits. If a natural person purchases the vehicle on electric-powered or hybrid propulsion, he or she may receive an allowance of CZK 60 000. The government has yet to establish the requirements for the provision of this state contribution and, in fact, it has not yet determined when this change shall be realizable in practice.

With regard to these legal acts, the President vetoed the draft Act on Promotion of Economic Growth and Social Stability and returned it to the Senate for further discussion in September. On the other hand, the President signed the Income Tax Act which is to become effective from



#### **Prague Main Office**

Jungmannova 24, 110 00 Prague, Czech Republic  
tel.: +420 / 224 103 316, facsimile: +420 / 224 103 234  
e-mail: ksbpraha@ksb.cz

#### **Karlovy Vary Office**

Na Vyhliďce 53, 360 21 Karlovy Vary, Czech Republic  
tel.: +420 / 353 225 996, facsimile: +420 / 353 227 781  
e-mail: ksbkv@ksb.cz

#### **Ostrava Office**

Českosobotská 7, 702 00 Ostrava, Czech Republic  
tel.: +420 / 553 030 511, fax: +420 / 553 030 512  
e-mail: ksbostrava@ksb.cz

the date of publication in the Collection of Laws.

### **Amendment to Act on Social Security - discounts on insurance**

The Senate passed an amendment to the Social Security Act (Parliamentary publication no. 769) pursuant to which employers may apply discounts on insurance paid on behalf of their employees. This is a discount is calculated as 3.3% of the difference between the amount of 1.15 times the average wage rounded up to a hundredth of a Czech crown (the average wage calculated for 1Q09 was 22 328 CZK) and the amount of insurance tax base of the employee. Total discount can be applied only until the maturity date of the premium for the calendar month to which the discount applies. In addition, the discount cannot be applied retroactively. The proposed date of effect for this change is the first day of the calendar month following the date of publication. The President signed this draft amendment on 7 July 2009. We expect the Act will be published in the Collection of Laws in July 2009 and therefore the relief should apply from 1 August 2009.

### **APPROVED AND EFFECTIVE LAWS**

#### **Amendment to the Tax Administration Act - changes in service**

On 1 July 2009 an amendment to the Tax Administration Act came into effect (see Part 4 of Act No. 7/2009 Coll., amending the Civil Procedure Code) supplementing the rules for delivering tax documents in cases where the addressee of the document cannot be reached and the document is saved at the post office. The addressee may pick up the tax document at the post office within fifteen days of notification of delivery. If the addressee does not collect the tax document at the post office within this period, the postman shall deliver it to the mailbox of the addressee (provided the tax authority does not prohibit such possibility) and the tax document shall be deemed to have been delivered and served. If this mailbox does not exist, the document shall be returned to the tax authority and notification of delivery shall be posted on

the bulletin board at the tax office. Pursuant to this amendment, the recipients of tax documents may acknowledge the actual content of the delivered tax documents more quickly.

#### **Data mailboxes**

Act No. 300/2008 Coll., on Electronic Communication, Personal Numbers and Authorized Conversion of Documents ("the Act"), came into effect from 1 July 2009 and established the usage of data mailboxes. The data mailbox is an electronic repository to be used for being informed by public authorities and for informing public authorities of any actions against them. The data mailbox is set up at no cost and managed by the Ministry of Interior. Communication via data mailboxes is free.

Following expiry of the three-month transitional period - i.e. from 1 October 2009, data mailboxes must be set up for public authorities, legal entities, branches of foreign legal entities registered in the Commercial Register and legal entities established by law. Other legal entities and natural persons, entrepreneurs and non-entrepreneurs can request their data mailbox to be set up.

After the expiry of transition period, the public authorities are obliged to notify all entities who have set up a data mailbox via their data mailboxes and not through the post. Natural persons and legal entities will have a choice in communication with public authorities - they can communicate with them either through data boxes or continue writing through the postal system.

Pursuant to the Act, "public authorities" mean state authorities (government, administrative and other state offices, courts, public prosecution, the security forces, the Czech National Bank, the Ombudsman and others), the local government units, state funds, health insurance, Czech Radio and Czech TV, associations established by law, notaries and court executors.



#### **Prague Main Office**

Jungmannova 24, 110 00 Prague, Czech Republic  
tel.: +420 / 224 103 316, facsimile: +420 / 224 103 234  
e-mail: ksbpraha@ksb.cz

#### **Karlovy Vary Office**

Na Vyhliďce 53, 360 21 Karlovy Vary, Czech Republic  
tel.: +420 / 353 225 996, facsimile: +420 / 353 227 781  
e-mail: ksbkv@ksb.cz

#### **Ostrava Office**

Českosobrátská 7, 702 00 Ostrava, Czech Republic  
tel.: +420 / 553 030 511, fax: +420 / 553 030 512  
e-mail: ksbostrava@ksb.cz

Generally, there is no need for an electronic signature to log in to a data mailbox and send documents to public authorities. This is required only in cases when more people have access to one data mailbox and it is necessary to clearly identify which person is sending a message. This situation occurs, for example, in a limited liability company with two statutory bodies when both of them are required to sign on behalf of the company.

Documents sent by a public authority to the data mailbox of an entity are deemed to have been delivered by the recipient logging into the data mailbox. If the recipient does not log in within 10 days after delivery, the document is nonetheless deemed to have been delivered after 10 days.

The Act provides for the procedure for conversion of electronic documents delivered to the mailbox data to hard copies, including who is entitled to conduct authorized conversion (i.e. resulting in an official document and not merely uncertified copies).

## JUDICATURE

### **On 11 June 2009 the European Court of Justice in the case C-572/07, RLRE Telmer Proper Ltd. commented on the interpretation of services of cleaning common areas of rental housing.**

Pursuant to the ECJ's interpretation, the cleaning of common areas cannot be included as a part of housing rental services. Supply of rental apartments is exempt from VAT, but services of cleaning common areas must be subject to VAT. At the same time, this ruling can help in finding the interpretation of the main performance and performance by and under what conditions the performance shall be subject to the same supply as the main performance.

---

This overview provides basic information and does not replace the full text of the

relevant legislation. Should you require more detailed information or assistance in solving specific problems, please contact any tax adviser in the law office of Kocian Šolc Balaščík. We would be pleased to provide you with more detailed information.

KŠB Tax Team:

tel. 22410 3316

fax 22410 3234

e-mail: [hnavratilova@ksb.cz](mailto:hnavratilova@ksb.cz)

[pblazkova@ksb.cz](mailto:pblazkova@ksb.cz)

[rkucerova@ksb.cz](mailto:rkucerova@ksb.cz)

[ajuric@ksb.cz](mailto:ajuric@ksb.cz)

[vpatek@ksb.cz](mailto:vpatek@ksb.cz)

[dbucek@ksb.cz](mailto:dbucek@ksb.cz)



#### **Prague Main Office**

Jungmannova 24, 110 00 Prague, Czech Republic  
tel.: +420 / 224 103 316, facsimile: +420 / 224 103 234  
e-mail: [ksbpraha@ksb.cz](mailto:ksbpraha@ksb.cz)

#### **Karlovy Vary Office**

Na Vyhliďce 53, 360 21 Karlovy Vary, Czech Republic  
tel.: +420 / 353 225 996, facsimile: +420 / 353 227 781  
e-mail: [ksbkv@ksb.cz](mailto:ksbkv@ksb.cz)

#### **Ostrava Office**

Československá 7, 702 00 Ostrava, Czech Republic  
tel.: +420 / 553 030 511, fax: +420 / 553 030 512  
e-mail: [ksbostrava@ksb.cz](mailto:ksbostrava@ksb.cz)