



Mountain guides

Under the Criminal Code, a lawyer is required to prevent a client from evading tax. According to the [amendment to the Tax Code](#), attorneys are required to pass on information obtained from their own AML procedures to financial authorities. The pressure to break confidentiality is increasing. On the one hand we understand. Attorneys do not want to be party to any form of dishonesty. On the other hand, we must defend ourselves. Our profession is sort of like being a mountain guide. We set out with clients on various paths through a legal wilderness, and we don't always have reliable maps. Some paths are unacceptable to us; we simply will not take them. But informing the authorities about what we talked about with clients during the trek or when planning it is foreign to our profession. The draft [European directive](#) takes a different approach. In general, it requires "intermediaries" to report cross-border tax driven structures. But he who has a legal duty of confidentiality instructs his client, who subsequently bears this obligation on his own. This is a better approach and hopefully it will not be lost upon being transposed into Czech law.

Stanislav Dvořák

CZ: Notification of cross-border tax driven structures

SK: The end of investment arbitration?

CZ: Implementation of the ATAD Directive into the Czech tax laws

In summary

CZ: Identity of economic unit in the transfer of employees

In a recent ruling, the Supreme Court stated that the transfer of rights and obligations from labour relations occurs (only) upon the transfer of an identical economic unit. Thus, it did not rely on its hitherto broad interpretation in which employees were deemed transferred to a new entity as long as it merely pursued a similar activity to that of the original employer. (KD)

CZ: Penalties for bringing an action before ordinary courts despite an arbitration clause

By its latest decision, the Supreme Court confirmed that if a plaintiff tried to "bypass" a valid arbitration clause and filed an action before an ordinary court, it is obliged to pay the defendant compensation for the costs of the proceedings, which based on objection at the existence of an arbitration clause will be suspended. (TD)

SK: Amendment to the Anti-Money Laundering Act

On 15 March 2018, an amendment came into force, transposing EU Directive 2015/849, known as the 4th AML Directive. In addition, the amendment introduces an obligation for legal entities to retain data on the end-users of benefits. (SL)

CZ: Amendment to the Labour Code

From 1 June 2018, a ban on termination will also apply in the case of long-term care with the employer's consent, caring for a sick child younger than 10 years of age or a member of the household, or the care of a child under 10 years of age. The ban on termination will not be applicable in the same cases as temporary incapacity for work. (VO)

CZ: Notification of cross-border tax driven structures

The proposed amendment to the Administrative Cooperation Directive (2011/16/EU) seeks to reduce aggressive tax planning. The amendment introduces the obligation to notify tax authorities of cross-border structures, which can be a tool for achieving tax benefits. Member States will then share the information obtained via a common database.

The proposal designates structures to be reported by general features, such as the use of jurisdictions with low corporate tax rates, non-transparent entities, transfers of difficult-to-value intangible assets, etc. The reporting obligation applies to "intermediaries", including advisors implementing the structure, as well as the taxpayers themselves, if an intermediary is not involved or is bound by confidentiality. Member States must implement this Directive by 31 December 2019 so that it is effective no later than 1 July 2020.

Stanislav Dvořák, Kryštof Kulan

SK: The end of investment arbitration?

The Court of Justice of the EU has issued a breakthrough decision in Slovakia v Achmea, a case with a major impact on all investment arbitration under the so-called Intra-EU BITs (agreements on the protection and promotion of investment concluded between EU Member States).

The subject of the dispute was the validity of the arbitration clause agreed between Slovakia and the Netherlands in the Intra-EU BIT. Under this clause, Achmea sued the Slovak Republic before the arbitration tribunal and succeeded. Slovakia was obliged to pay damages amounting to EUR 22 million. The Slovak Republic sought to annul this decision by contesting the validity of the arbitration clause and therefore of the entire arbitration award.

The CJEU endorsed the Slovak Republic's arguments by ruling that the arbitration clause agreed in the Intra-EU BIT is contrary to European Union law. The CJEU thus called into question the validity of all arbitrations under such agreements.

Mária Sadloňová

CZ/SK: New international awards

Legal 500: Our Czech team has been recommended in **employment (Band 1), commercial, corporate and M&A, dispute resolution and real estate and construction**. Our Slovak team has been recommended in **projects and energy**.



Chambers and Partners: Dvořák Hager & Partners again received its top ranking in **labour law** and reasserted its strong position in **corporate law / M&A** and **energy**. Our team in Slovakia was again highly recommended in the area of **energy**.



CZ: Document verification

The Notarial Chamber approved an interpretative statement that a notary may not accept a document (typically a power of attorney) consisting of several pages bearing an officially authenticated signature unless the pages are firmly attached to each other with a seal (i.e. a sticker and stamp of the verifying authority). It is necessary to be aware of the erroneous practice of Czech points at municipal offices and Czech post offices that only attach individual pages of certified documents upon request. (PP)

SK: Amendments to the Labour Code

From 1 May 2018, an amendment to the Labour Code, which adjusts the wage benefit for work on Saturdays, bonuses for Sunday work and a tax exemption for 13th and 14th salaries payable to employees, will be effective. (KL)

CZ: Proposed amendment to the Business Corporations Act

The proposed amendment seeks to link the Czech Commercial Register with the commercial or similar registers of other EU countries through the interface for the European central platform. It also aims to ensure greater transparency of corporate organisational structures and to effectively punish corporations that repeatedly fail to comply with the obligation to file their financial statements in the Collection of Documents. (LZ)

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CZ: Implementation of the ATAD Directive into the Czech tax laws

The Czech Ministry of Finance sent a draft amendment to the tax laws on the implementation of the EU Anti-Tax Avoidance Directive (ATAD) for comment procedure. The amendments, which should come into effect in 2019 or 2020, will change several key areas in companies:

1. Businesses will **no longer be able to deduct interest in full**, but only up to 30% of EBITDA or EUR 3 million. Due to the amount of the limit, this will primarily affect large companies with interest-bearing liabilities in billions of CZK.
2. If a company **decides to move its seat or assets to another state, it should pay an "exit tax"**.
3. The ATAD further regulates the **taxation of controlled companies** (so-called CFC-controlled foreign company rules). If the parent company has a foreign controlled company, it is possible to tax the profits of that controlled company within the tax base of the parent company.

This is the first draft of the text of the law, We will follow the developments.

Martin Houska

The information about current tax changes is brought to you in cooperation with

MOORE STEPHENS

CZ: RUN and HELP

Dvořák Hager & Partners supports a project by the foundation

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When: 11. 5. 2018, 3 p.m.
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