Dear Readers,

This year many of our clients are celebrating the 20th anniversary of the establishment of the company in the Czech Republic. It is an opportunity to look back and to plan further for the future. The assumption of control by succeeding generations occurs in family firms and the method of transfer is a frequent topic of our discussions. If, in this context, you intend to change the articles of partnership, you should also revise them with regard to the new Civil Code, although it is not clear whether it will be effective from 2014 or 2015. After all, it should be valid for at least another 20 years ...

We wish you good luck in deciding the future direction of your company and we are pleased that we can assist you in doing so.

Věra Jankovcová
partner Moore Stephens

Corporate income tax from the viewpoint of foreign investors

The Czech Republic may, from the viewpoint of Western investors, be considered a tax haven because they often can reach zero tax liability due to various tax benefits and tax reliefs, although the actual corporate income tax rate is 19%. This article highlights some of the available benefits.

**Deductibles**
- **Expenditure on research and development**
  
  From the tax base, a taxpayer can deduct “once more” 100% of the costs incurred for research and development projects, such as, for example, design or construction work, calculations, design technologies, production samples or prototypes. Of the expenses that can be deducted in this way, the personnel costs of the staff development department are the most substantial item. If anyone is uncertain about the application of certain expenses, it is possible to take advantage of a binding assessment by a tax office.

- **Tax losses**
  
  Tax losses may be deducted in five subsequent tax periods. In the event of a substantial change of the shareholders, tax losses can be deducted only where 80% of revenue stems from the same activities from which the loss arose. In the case of a merger, the successor company can, under certain conditions, also continue in tax losses deduction.

- **Donations to worthy purposes**
  
  If the company declares a large enough tax base, it can deduct donations to science, education, culture, charity and sport, etc.

**Suspension of the tax depreciation** is one of the appropriate tools for tax optimization, especially in combination with the application of tax losses.

**Tax credits**
- **in respect of investment incentives**
  
  Investment incentives can be drawn, for example in the case of planned investment in production in the territory of the Czech Republic, in the minimum amount of CZK 100 million in manufacturing, with a minimum of CZK 50 million in machinery. If the investment projects are implemented in districts with higher unemployment, then half the minimum amount of investments is sufficient. The amendment of the Act on Investment Incentives from July 2012 extended the deadline for the tax credit utilization (30 – 40 % of the investment) from five to ten years.

- **for employment of disabled persons**
  
  The tax may be reduced by CZK 18,000 for each employee with a disability, or by 60,000 CZK in the case of employees with severe disabilities.

As ever, the possibility of a tax reduction depends on a number of conditions that have to be met. We will be happy to assist you in this area.

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(Non) taxation of unrealized foreign exchange gains again in dispute

The Supreme Administrative Court (SAC), in its decision of January 2013 ruled in favor of the tax entities for the second time in a short period, upholding its previous conclusions that "unrealized foreign exchange gains are not taxable income, as they arise only from conversion and have no relevant basis in the disposal of property". Despite the fact that the subject of litigation was again unrealized gains arising on foreign currency loans, one can expect a similar SAC attitude to unrealized exchange rate losses.

Due to the very rapid negative reaction of the Czech Tax Administration (CDS) to the previous SAC decision, official publication of the opinion is also expected in this case. It will be interesting to see whether CDS changes its current opinion and takes a position regarding the issue of unrealized foreign exchange losses, as existing SAC case law raises a number of contentious issues, including:

- Will it be necessary to file additional tax returns for the barred period?
- What will the tax administration’s position on the issue of default interest be in cases of additional tax liability?
- How should realized foreign exchange differences for receivables, liabilities, incurred in the already statute-barred periods (which in the case of long-term loans is quite common thing), be taxed?

We are prepared to recommend appropriate tax treatment to our clients; in each case we already recommend, within the work on the financial statements for the year 2012, that realized gains (losses) be separated very carefully, using analytical accounts.

We will continue to monitor the situation and keep you informed.

Coffee Table

Did you know that …

The entity paying interest to a natural person in the EU must comply with the obligation to notify and file the report of the paying agent on an electronic tax form (follow on http://eds.mfcr.cz).

As of March 16, 2013, the maximum 60-day due date is mandatory; according to the EU Directive on the Treatment of Combating Late Payment, this should be also reflected in the forthcoming amendment of the Commercial Code.

In the opinion of the General Tax Directorate, employees seconded abroad cannot be provided with the same travel expenses as for a business trip abroad (see this link in Czech) and it is possible to post untaken holiday in the bookkeeping only through the accounts of provisions (see this link in Czech).

Spring and tax duties of individuals

With the advent of spring less pleasant duties occur to individuals, namely the filing of income tax returns, the payment of tax, the filing of statements of income and expenditure for social security and health insurance purposes as well as the payment of arrears of tax and insurance.

We would like to remind you of the basic deadlines:
08.04.2013 - deadline for the filing of income tax returns and the payment of tax arrears without the risk of sanctions from the tax office; the return must be submitted at the counter of the tax office or the post office and arrears credited to the account of the tax office, or paid in cash at the tax office,
02.05.2013 – filing the statement of income and expenditure for the year 2012,
No later than 10.05.2013 - payment of arrears in insurance (payable within 8 days after the filing of the statement)

“Goal without a plan is just a wish.”

Antoine de Saint-Exupéry
From abroad

**Slovakia:** In accordance with the amendment of the Income Tax Act, effective from 1.1.2013, it is possible to extend the deadline for filing tax returns only if the taxpayer also had income from abroad (e.g. through a permanent establishment). The mere fact that a taxpayer has customers abroad in foreign countries, or has income from the sale of goods abroad, is not a reason to extend the period. In 2013, the tax office can extend this period for an additional three months based on an application by the taxpayer.

**Poland:** From 2013, a creditor has a new opportunity to reduce the amount of value added tax on output, if more than 150 days have elapsed from the due date of the invoice for the delivered goods or services. Until the end of 2012 it was possible to make this correction only in the case of invoices with more than 180 days after the due date. This compensation can, of course, be made later, but no later than 2 years after the maturity date.

Financial transaction tax in the European Union

The European Commission is considering introducing a **tax on financial transactions** starting in 2014, a so-called Tobin Tax, which would apply in particular trades in bonds, equities and derivatives. The planned rate will be differentiated according to the type of business and should be 0.1% for stocks and bonds and 0.01% for derivatives. The **Czech Republic would also feel the impact of this tax**, even when not accepting the proposal, so it is worth keeping that risk of taxation in mind when considering possible financial transactions.

We are pleased to announce that the award of Entrepreneur of the Year 2012, in the 13th annual prestigious competition for that title has been granted to Mr. František Piškanin, the owner of the family firm HOPI s.r.o., which is our longtime esteemed client and is among the largest logistics and transport conglomerates in Central and Eastern Europe. We heartily congratulate him on his success and wish him good luck in the competition for the World Entrepreneur of the Year, which will be held this June in Monte Carlo.

We thank Mr. Piškanin very much for the Business Partner Excellence Award, which we obtained from him for long-term cooperation on the 20th anniversary of his company.