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**CHANGES AWAITING
ENTREPRENEURS FROM 2013**

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1
2013

Changes Awaiting Entrepreneurs from 2013

Electronic Tax Returns, a Black List of unreliable VAT payers, and new rules in the area of distraints. We provide details of some of the changes which may have a bearing on business activities.

As every year, changes have occurred in taxes. For the purpose of this article, attention will rather be paid to technical matters, the different tax changes are dealt with in the text on page 6. The tax administration expects the changes to help increase the use of the electronic method for accounting documents by companies and entrepreneurs. This entails an innovation whereby some VAT payers will now be required to file their Tax Returns online. The electronic VAT Returns will not apply to tax payers doing business as natural persons whose annual turnover does not exceed CZK 6 million. Further, the VAT Act Amendment has put tax documents in digital form on a par with those on paper. Whereas until now invoices were required to carry advanced electronic signatures or be sent by means of the EDI (electronic data interchange) system, this duty has been abolished as from January.

In practice, this will mean that, after receipt, invoices will not have to be printed and filed in the classical paper form, but their digital storage will suffice. However, the consent of the customer to whom the invoice is addressed will still be required for the digital format.

■ BLACK LIST OF UNRELIABLE VAT PAYERS

From January 2013, domestic entrepreneurs will have to keep a careful watch on those they are doing business with. The government is introducing a Black List of unreliable VAT payers which will register persons by specified criteria. Those who trade with such an entrepreneur will automatically be liable for unpaid tax from the taxable supply they receive from such a payer. It will thus be essential to consistently monitor the information on unreliable payers. According to information from the Ministry of Finance, 23 000 to 28 000 entrepreneurs may find themselves on the 2012 Black List.

Changes are also made as from 2013 to the Labour Law regulations, where compensation for the use of vehicles is reduced and the average price of fuel is increased. According to Section 157 Para. 4 of the Labour Code, the basic reimbursement rate for 1 km travelled is the lowest, at CZK 1 for two- and three-wheeled vehicles and CZK 3.60 for passenger road motor vehicles. Accord-

ing to Section 158 Para. 3 sentence three of the Labour Code, the average price of 1 litre of fuel is CZK 36.10 for 95-octane car petrol, CZK 38.60 for 98-octane car petrol, and CZK 36.50 for diesel fuel.

No change occurs in the minimum wage, it remains at the same amount of CZK 8 000 (approx. EUR 320). But other changes are taking place, namely by Government Regulation No.246/2012 Coll., which abolishes Section 4 of Government Regulation No. 567/2006 Coll., on minimum wage, the lowest levels of guaranteed wage, definition of hazardous working environment, and extra payment for work in hazardous working environment. The above-mentioned Section enabled employers to set lower minimum and guaranteed wage rates for graduates, juveniles, and handicapped pensioners. As from 2013, the lower rates of minimum and guaranteed wages no longer apply to these persons. The lower rates were to motivate entrepreneurs to employ unskilled people or those without experience or the handicapped. Equal conditions (a ban on discrimination) will now receive priority over support for employment.

■ MAJOR CHANGES TAKE PLACE IN EXECUTIONS (DISTRRAINTS)

A major change, which could save debtors large sums of money, is the duty to combine executions pursued by one creditor against one debtor. The merger will apply to executions carried out by one executor's office, as well as by various executors where proposed by the debtor. The new rule will apply especially to small claims. Executors will currently also be required to video-record the procedures of seizures of movable property. The recording must be made (if the executor does not decide to make it voluntarily) at the request of a person who is present, i.e. the debtor, his/her family, or e.g. the owner of the movables being seized. As from 2013, membership rights in housing cooperatives may be auctioned as well. At present, their value is determined by the settlement share as per the Commercial Code and often is far below the market value, which is equal in many cases to the value of privately owned flats. Thus, if a debtor loses a flat, this will redeem a major part of the debt.

A new form of seizures through the management (letting) of real estate is being introduced whereby, besides the sale, this



execution method will also allow the use of profit from the renting out of the real estate. Further, the possibility of seizing animals is being limited, namely executors will not be able to confiscate pets. The Amendment does not apply to breeding animals which can be included in the execution of the seizure. More precisely, the law states: „animals where the economic effect is not the main purpose of their keeping, and that serve man as companions“. Another innovation in the area of claims is to prevent situations where debtors learn about their liabilities only after the amounts have swollen several times over. The Amendment introduces what is called a Pre-action Reminder, which requires creditors to contact debtors before starting legal action and to call on them to pay the debt. The Pre-action Reminder must be sent seven days at the latest before starting the legal action for debt recovery. In the

case of failure to send the debtor the above-mentioned Reminder, the creditor shall be sanctioned by not being awarded reimbursement of the costs of the proceedings.

■ IMPROVEMENT IN CREDITORS' SITUATION

Finally, let us mention the possibility of selling a business share by auction. As from January 2013, the situation of creditors who are owed money by members of limited liability companies is improving. The law newly introduces the possibility of selling a member's ownership share in an auction. Thus far, it has been very difficult to exploit a business share in an execution. To date, the amount available to satisfy creditors has been what is known as a settlement share, which has been paid to the debtor after his forced withdrawal from the company. The settlement was to be carried out by the company itself, which had

to obtain the necessary finance. In practice, this resulted in unnecessary delays. What is more, the calculation of the settlement share was derived from the assets as ascertained from the financial statement, not from the real market value. Creditors thus fared badly, even if the debtor was a member of a successful company. As from January, the share can be auctioned first, which may guarantee a better yield. The price is set in collaboration with an Assessor.

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Taxes in 2013: Changes in VAT Rates and Employee Taxation

Several Taxation Act amendments became effective as from January 2013. The changes concern both direct and indirect taxes, resulting in new obligations for taxpayers. The following is a survey of the most important changes.

■ VAT

With effect from 1 January 2013, the standard and the reduced VAT rates have been increased by one percentage point, to 21% and 15%, respectively. No changes, however, have taken place as regards the classification of goods and services in either the reduced or standard rate category, with the exception of the shifting of baby nappies and selected sanitary products into the standard VAT rate category. Also, a new obligation has been imposed on all VAT payers, who

are now required to state the numbers of their bank accounts used for their business activities in their applications for VAT registration. Another new provision is the starting of a new register, in which the tax administrator will log entities seriously violating their obligations, thus endangering the public interest in the due collection of taxes. The register, to be part of the VAT Payers Registration System, will be available as from 1 April 2013. The Tax Administrator is the only person to qualify a payer as unreliable. Whoever decides to do business with a payer listed in the register will consequently be liable for the unpaid amount of the tax on the taxable payment he/she has received from such a payer.

■ THE IDENTIFIED PERSON INSTITUTE

As from the beginning of 2013, persons liable for tax are not required to register as full VAT payers for reasons of exceeding the limit of purchasing goods in another EU member state or for accepting a service from a person registered in another EU member state or from a foreign person, or for providing

a service in a place located in another EU member state. Instead, a new institute has been established, the institute of "persons identified for tax", which provides for VAT liability on the purchase of goods and at the acceptance of a service in the case of cross-border transactions. In the case of domestic payments, however, the provision remains that they will be in the position of persons relieved of tax payment for reasons of not exceeding the turnover limit for 12 consecutive months.

■ MANDATORY ONLINE VAT RETURN FILING

It is also useful to mention the obligation of online VAT return filing (VAT registration application, tax return, reports and annexes to tax returns) to come into force on 1 January 2014, mainly to allow time for VAT payers to prepare all their documents. This obligation does not apply to natural persons whose turnover for the preceding 12 consecutive months at most does not exceed CZK 6 million (approx. EUR 240 000), unless such an obligation has been imposed on them by law.