Rödl & Partner

NEWSLETTER CZECH REPUBLIC

Issue: March 2025

Information on Law, Taxes and Economics in the Czech Republic

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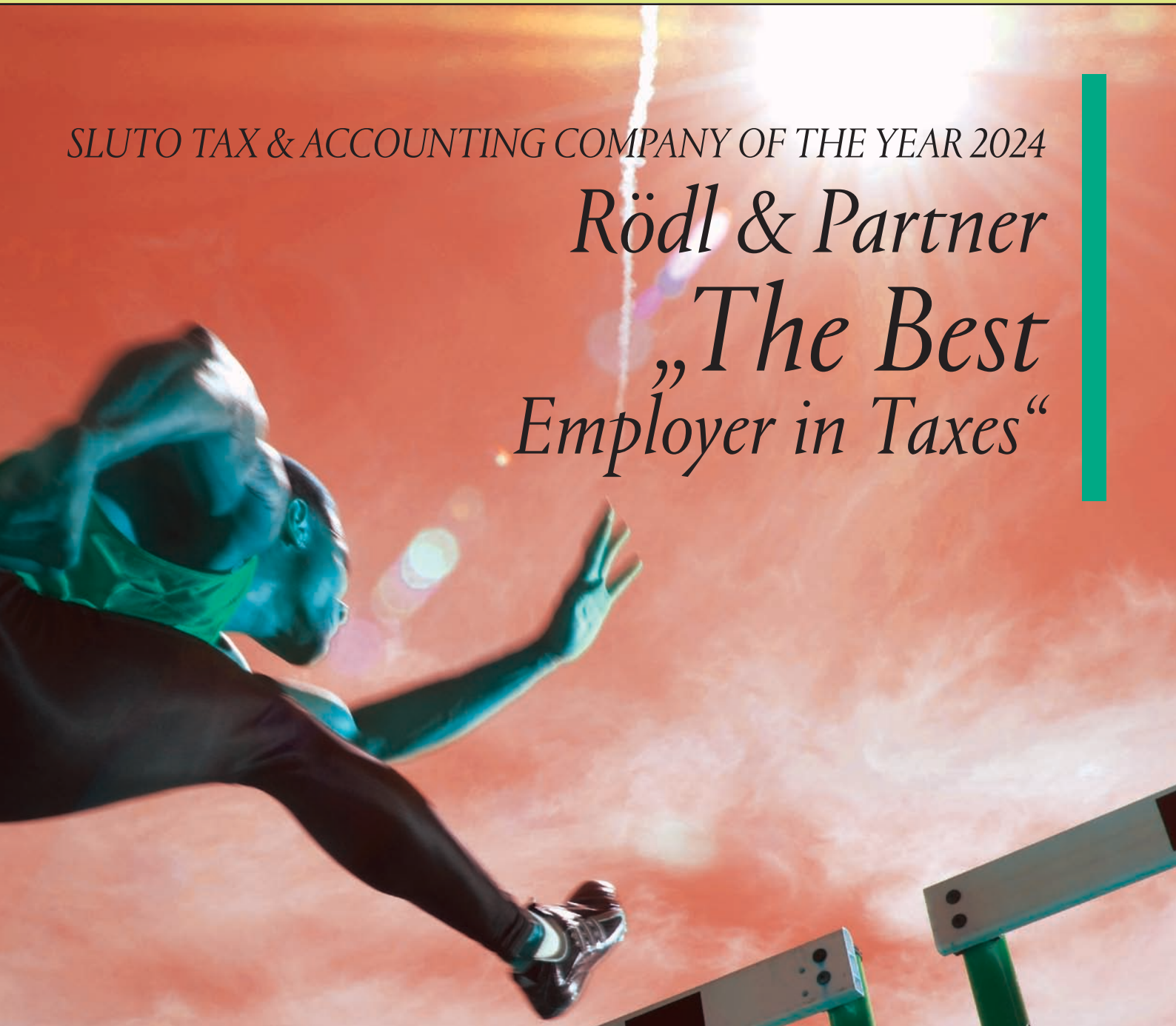
Czech Law Firm of The Year 2024

Czech Law Firm of the Year 2012–2024



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Content:

→ Law

Czech Telecommunication Office launches awareness campaign on the DSA regulation

The Digital Services Act (DSA) has been directly applicable for over a year now. In the Czech Republic, the Czech Telecommunication Office has been designated as the coordinator, with its powers to be defined by the upcoming Digital Economy Act. The Office has embraced its role with remarkable enthusiasm, already notifying many businesses about their potential DSA obligations through official data messages – much to their surprise.

Lenka Hanková
Rödl & Partner Prague

On 17 February 2024 Regulation (EU) 2022/2065 on the Single Market for Digital Services (amending Directive 2000/31/EC (see here) came into effect. It applies to all online intermediary services, including:

- Mere conduit services (such as internet service providers, open Wi-Fi networks – including those operated by hotels or shopping centers),
- Caching services (services for temporary information storage),
- Hosting services (such as web hosting, cloud providers, online platforms, marketplaces, social networks – and even e-shops if they allow customer reviews, discussions, or online advisory services), and
- Internet search engines.

The regulation aims to create a safer online environment. It introduces numerous new obligations for digital service providers, graduated according to the type of service. The common thread connecting all these services is their interaction with user content – any data that an internet user provides to an intermediary within their service (such as user comments, reviews, discussion posts, advertisements, photos, or videos on social media). Providers of intermediary services can transmit, store, publish, and further process this content. And the principle is clear: if content is illegal offline, it must be treated as illegal online too.

The regulation also establishes conditions for provider liability regarding such content. In simple terms, providers are not primarily liable, but if they learn about illegal content and fail to handle it in accordance with their obligations, they become responsible and may even be required to pay damages.

Currently, the Czech Telecommunication Office is only exercising those powers that do not interfere with the rights and obligations of entities – at least until the new Digital Economy Act (see here) takes effect. This legislation has only passed the second reading in the Chamber of Deputies. Once enacted, the Office will fully embrace its role and will be able not only to inspect obligated entities but also to impose substantial administrative fines.

If you are wondering whether you are among the obligated entities, we recommend reading both the Provider Guide (here), and the Provider Study specially prepared for the Czech business environment (here) published by the Czech Telecommunication Office. You might also find yourself in the preliminary list of identified digital service providers (here).

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→ Law

Finally clarity on the validity of simple electronic signatures like DocuSign

Email approval of an order, ticking a checkbox in an online store, an image of a signature in a contract, or even more advanced types of electronic signing like DocuSign with verification via SMS or email – unlike other types such as qualified or advanced signatures, the so-called simple electronic signatures do not have it easy. In practice, doubts often arise as to whether their use can lead to valid legal action. One bright exception in the courts' interpretive practice so far is the decision of the Metropolitan Court in Prague of 19 September 2024 in case No. 54 Co 217/2024–259.

In this case, the court specifically assessed a simple electronic signature created by DocuSign. The court generally stated that with simple electronic signatures, it is necessary to prove both the identity of the signing person and the fact that the signing person expressed their will. For DocuSign, the court found that this electronic signature meets these conditions and is a valid and binding expression of will. We can also hope that higher court instances will adhere to this opinion in the future.

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→ Taxes

The dispute over property tax in Lovosice continues: Supreme Administrative Court issues ruling

That was indeed a swift reaction. In the previous double issue, I alerted you to and discussed the conclusions of the Regional Court in Ústí nad Labem in its judgment in case No. 40 A 6/2024-25 from 5 November 2024, regarding the unauthorized establishment of a local coefficient through a generally binding measure by the Lovosice city council.

Petr Koubovský
Rödl & Partner Prague

And here we are — the Supreme Administrative Court has made its decision

Let us recall that this case concerns a dispute over how the local coefficient for property tax purposes was determined between Lovochemie company and the Lovosice city council.

The Regional Court upheld the company's lawsuit and ruled that the generally binding measure establishing the local property tax coefficient for specified real estate, issued by the Lovosice city council on 19 June 2024 under No. 051/4/2024, was void.

The Supreme Administrative Court has now taken a clear position in its judgment No. 1 Afs 311/2024–41 of 13 February 2025, namely that the measure in question is certainly not void, but may only be unlawful or unlawfully issued. The case is now remanded to the Regional Court in Ústí nad Labem, which must decide whether the measure is unlawful and whether any deficiencies can be remedied.

Specifically, the Supreme Administrative Court stated that although "a missing statutory authorization to issue an implementing legal

regulation undoubtedly constitutes a defect in the legal basis of an administrative decision," such "a defect in the legal basis does invalidate the administrative decisions issued on its." The intensity of the defect is what matters. In this case, the legal basis was valid but suffered from a defect leading to ineffectiveness and inapplicability. In such situations, "administrative decisions are not void, as the legal basis for the issued administrative decisions is 'merely' defective, not non-existent; it is also necessary to take into account the fact that this defect in the legal basis is not obvious at first glance." Such measures can only be unlawful, not void.

At the same time, the Supreme Administrative Court also noted, for the sake of completeness, that in the case at hand, it did not assess whether the respondent's council had or did not have the authority to issue the contested generally binding measure, and whether it is lawful for this reason. Such an assessment would be premature.

It remains an open question whether issuing a generally binding measure under Section 12(1)(b) of the Property Tax Act in 2024, i.e., based on valid but not yet effective legislation (unlike the case addressed in the Supreme Administrative Court judgment No. 4 As 17/2009-62, where the effectiveness of the legal basis had expired) was truly unlawful, and whether any such unlawfulness could be remedied.

Unfortunately, the Supreme Administrative Court's decision did not bring a fundamental turning point in the case, which remains entirely open. The outcome of this dispute may create a precedent for other similar municipal measures, increasing legal uncertainty not only for taxpayers but also for municipal councilors and their budgets.

We can only await further steps from the Regional Court in Ústí nad Labem.

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→ Taxes

Tax deduction for donations: extended until 2027

This February, a long-anticipated bill was approved with retroactive effect, extending the increased tax deduction for donations at 30 percent of the tax base.

Individuals can now apply this increased deduction for tax years 2022 through 2026. For legal entities, the 30 percent tax base deduction can be claimed for taxation periods ending between 1 March 2022, and 28 February 2027.

To claim the donation deduction, taxpayers must meet the conditions set forth in the Income Tax Act.

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→ Taxes

Separate records of research and development costs: what does the recent Supreme Administrative Court ruling say?

On 29 January 2025, the Supreme Administrative Court (SAC) issued judgment No. 4 Afs 215/2024, addressing a dispute over the legitimacy of an additional corporate income tax assessment due to an alleged failure to prove the connection between expenditures and research and development (R&D).

Tomáš Jirásek
Rödl & Partner Prague

The dispute primarily concerned the separate accounting of R&D costs. The Income Tax Act stipulates that any taxpayer claiming an R&D deduction must maintain separate records in order to create a complete inventory of all expenditures incurred within an R&D project and to distinguish these expenses from the taxpayer's regular costs. Based on these separate records, it must be possible to link individual accounting documents with items in the records.

In the case at hand, a company claimed an R&D deduction for costs incurred in developing new heating boiler models. The tax authority questioned the evidence with which the company was proving which activities the relevant employees performed on R&D projects and on which days. The tax authority also criticized deficiencies in the records of material costs for prototypes. The company disagreed with this conclusion, as did the regional court, which ruled in the company's favor.

The company submitted a list of development workers' names, their payroll records, and work reports containing the number of hours each employee spent on R&D activities in individual projects for each month during the monitored period. The facts stated in the records were also confirmed by employee testimonies. Material costs were supported by material release notes, which specified the type and quantity of material and the name of the related R&D projects. The dates on the release notes corresponded with the progress of work on the projects. Additionally, numerous other materials were provided to demonstrate the actual activities performed on the R&D projects.

However, the tax authority still argued that the evidence provided was insufficient, as it allegedly did not show what specific activity each employee performed on R&D for each individual day. They requested task sheets, which not all employees prepared. Furthermore, the tax authority found deficiencies in recording material consumption for boiler prototype production. In their view, it was impossible to verify from the warehouse release notes that the reported material was actually used, and in the claimed quantity, for the production of these prototypes. At the same time, no calculation of production costs was submitted, which the tax authority had insisted on throughout the proceedings.

The SAC did not concur with the tax authority's conclusions. According to the court, while the evidence could have been more thorough in some cases, it was sufficient in this instance to prove the expenditure on R&D. The SAC particularly appreciated that all the evidence presented corresponded with each other and did not contain contradictions.

This case confirms that defending an R&D deduction remains a complex process. We can only recommend that evidence be prepared continuously and ideally in cooperation with an expert on the subject.

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→ Rödl & Partner Intern

Rödl & Partner named Most Desired Employer in Taxation!

We're delighted to announce that Rödl & Partner has been recognized as the Most Desired Employer in Taxation for 2024 in the SLUTO TAX AND ACCOUNTING FIRM OF THE YEAR 2024 competition! This prestigious award not only confirms our attractiveness to tax advisory professionals but also represents our long-term commitment to creating a quality work environment, supporting professional growth, and delivering outstanding services to our clients.

MORE SIGNIFICANT RECOGNITION FOR RÖDL & PARTNER

Beyond this title, we achieved other excellent placements in the SLUTO TAX AND ACCOUNTING FIRM OF THE YEAR 2024 competition:
– 2nd place – Largest Advisory Firm 2024 by turnover (outside the Big Four)
– 4th place – Largest Advisory Firm 2024 by number of employees (outside the Big Four)

INDIVIDUAL ACHIEVEMENTS

Rödl & Partner's success is further confirmed by individual recognition of our experts:
– 4th place – Petr Koubovský, Tax Advisor of the Year 2024 in the commercial tax sector
– 6th place – Jakub Šotník, Tax Personality of the Year 2024

For more information about the competition and complete results, please visit https://soutez.dauc.cz. We thank all our colleagues who contribute to Rödl & Partner's success. We thank our clients for their trust and continued support

The Rödl & Partner Team

Impressum

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