Rödl & Partner

NEWSLETTER CZECH REPUBLIC

Issue: June 2025

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Rödl & Partner

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Content:

→ Law

New Legal Framework for Sending Commercial Communications Is to Be Introduced

A completely new Digital Economy Act is currently in the final stages of its approval. Primarily, this Act prepares the Czech Republic for the adaptation of the European Digital Services Act (DSA). One of the key components of the new Digital Economy Act will be a new legal framework for sending commercial communications. This legal framework introduces several significant changes made to the existing legal regulation.

Pavel Koukal
Rödl & Partner Prague

A completely new Digital Economy Act is currently in the final stages of its approval. Primarily, this Act prepares the Czech Republic for the adaptation of the European Digital Services Act (DSA). One of the key components of the new Digital Economy Act will be a new legal framework for sending commercial communications. This legal framework introduces several significant changes made to the existing legal regulation.

Commercial communications will be defined as any form of communication, including any form of advertising or any form of website notification designed to promote, directly or indirectly the goods, services or image of a company.

Sending commercial communications via email will generally only be permitted based on prior consent given by users, and such consent must meet the requirements set out in the General Data Protection Regulation (GDPR). In addition, companies will still be permitted to send commercial communications to email addresses obtained from their customers in connection with the sale of a product or service.

However, the use of such customer email addresses will only be permitted if the commercial communication concerns a similar product or service offered by the company and if the following three conditions are met.

The first condition is that the customer did not object to this use of their email address at the time it was provided, even though the customer was offered a free, simple, and clear way to raise such an objection by the company. The second condition is that the customer must always have the option to object to such use of their contact details at any time, free of charge and in a manner that is easy to understand and access. And this option must be available with each individual commercial communication sent. And the third condition defines a time limitation considering the customer relationship current, it means that no more than two years have passed since the last commercial communication was sent to the customer.

The new legal framework will also define a closed list of cases in which the sending of commercial communications by email will be explicitly prohibited.

Namely, these are the cases:

- when the communication is not clearly and transparently identified as a commercial communication,
- when it does not clearly identify the company on whose behalf or in whose name the commercial communication is sent, and
- when it fails to provide information on how the recipient can effectively object to the use of their email address for such commercial communications or withdraw previously given consent.

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→ Taxes

Notification on the Deferred Taxation of Income Received from Employee Share and Option Plans

The Financial Administration of the Czech Republic has released a new form to give notice about the deferred taxation of income received from employee share and option plans (ESOPs). This development follows the recently approved amendment to the Income Tax Act, which allows taxation to be deferred even for the income received as early as January 2024. Employers and foreign plan providers must submit the notices no later than 2 June 2025.

Martina Šotníková, Daniel Ďuriš
Rödl & Partner Prague

In the April edition of our newsletter, we informed you about significant changes made to the taxation of employee share and option plans introduced by the Amendment to the Income Tax Act that took effect on 1 April 2025. We discussed not only the new taxation rules applicable from 2025 onwards, but also the retroactive impact on income received in 2024. In addition, we provided recommendations for both employers and employees. This article intends to discuss the topic further and provide practical information regarding the notification on the deferred taxation.

New Form Published by the Czech Financial Administration

The Czech Financial Administration has published a non-mandatory form to give notice about the deferred taxation of income received from employee stock and option plans (ESOPs). The option to defer taxation under Section 6(17) of the Income Tax Act may be availed only if the employer takes an active step — the intention to defer must be notified to the relevant tax authority.

Retroactive Effect and Notification Deadline

The form reflects the amendment to the Income Tax Act effective from 1 April 2025 whose effect is retroactive. This allows taxation to be deferred even for the income received by employees between 1 January 2024 and 31 March 2025. The notice about the deferred taxation referring to this period must be submitted no later than 2 June 2025.

In addition to the income tax, the deferral also applies to any social security and health insurance contributions that are to be deferred along with the tax.

Who Submits the Notification

In cases where employee shares or options are granted by a foreign entity, the foreign entity may submit give notice about the deferred taxation rather than the legal employer based in the Czech Republic. According to Section 6(2) of the Income Tax Act, the "employer" is defined as the entity that provides the income to the employee — typically, this would be the foreign parent company.

Where to Submit the Notification

Entities based in the Czech Republic must submit the notification to the local tax office (having the territorial jurisdiction). In the case of foreign entities that are not registered as taxpayers in the Czech Republic, the notification can be submitted to the Tax Office for the Ústí Region (Finanční úřad pro Ústecký kraj).

Form Availability

The notification form has been published in both Czech and English to accommodate foreign entities involved in the process. In addition to employees' personal details, other mandatory information includes: the business corporation whose share was acquired, the type of income, the quantity, the value, and the currency.

Czech: https://financnisprava.gov.cz/assets/cs/prilohy/d-seznam-dani/OZN%c3%81MEN%c3%8d_verze_CZ.docx

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→ Taxes

Theft of Goods and VAT: GFD Opinion Brings Clearer Rules

In its latest opinion presented within the framework of the Coordination Committee, the General Financial Directorate (GFD) addressed the issue of VAT in cases of stolen goods and related damage compensation. In particular, this interpretation is important in practice for cases involving inventory shortages, insurance claims, or liability relationships with third parties.

Michael Pleva
Rödl & Partner Prague

The authors, together with the General Financial Directorate (GFD), aim to clarify the VAT treatment of compensation received for stolen goods. Although the opinion presented in the document cannot cover every possible scenario, it provides practical guidance for assessing the VAT treatment applicable to certain types of compensation received in connection with damage. Below are the most important conclusions from the discussed document.

Theft Without Compensation Does Not Qualify as a Supply of Goods

If no compensation is provided for the stolen goods (for example, the perpetrator is not caught or no agreement on damage compensation is made), this does not constitute a supply of goods for consideration. From a VAT perspective, it therefore does not qualify as a taxable supply.

When Does Compensation Qualify as a Taxable Supply?

In certain cases, compensation for damage may be considered as consideration for the supply of goods – typically when an agreement exists under which the goods are paid for, and the person obtains the right to dispose of them. This might apply, for example, to a warehouse keeper who agrees to pay for the value of the stolen goods and subsequently uses them, or to a customer who stole the goods but pays for the damage on the spot and keeps them.

Compensation Under Liability or Insurance – Not Subject to VAT

Compensation for damage does not always constitute a taxable supply. If the compensation is provided on the basis of liability for damage (e.g. by an employee responsible for entrusted assets or by an

insurance company), and there is no transfer of the right to dispose of the goods, it cannot be treated as a supply of goods for VAT purposes. Therefore, the compensation received is not subject to VAT.

Input VAT Deductions Are to Be Settled or Adjusted Only If Theft Is Not Properly Documented

A taxable person is required to adjust (or settle) the input VAT deduction on stolen property if the damage is not properly documented. In the opinion of the GFD, sufficient evidence is considered to include, for example, a resolution prepared by the Czech Police on closing the case or initiating/terminating criminal proceedings. In this regard, one should refer to the earlier GFD opinion on the application of the VAT Act when settling input tax deductions.

Compensation received for damage

In conclusion, while the document provides clearer guidance for assessing the VAT treatment of compensation received for damage, it does not constitute an exhaustive list of all possible cases. Each situation must be examined and assessed individually. Moreover, it is essential to properly document all relevant cases and demonstrate the correctness of the chosen VAT treatment to the tax authority.

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→ Taxes

Unlawful Determination of the Coefficient: The Dispute Between Lovochemie and the Town of Lovosice Continues

That is what you call perseverance...

In previous issues, I presented the conclusions of the judgment of the Regional Court in Ústí nad Labem, file number 40 A 6/2024-25, dated 5 November 2024. Under this judgment, the regional court initially upheld the action asserted by the company and ruled that the general measure adopted for the process of calculating the local coefficient of real estate tax for the defined real estate (adopted by the Town Council of the Lovosice Town on 19 June 2024 under Resolution Number 051/4/2024) is null and void.

Petr Koubovský
Rödl & Partner Prague

Under its Judgment No. 1 Afs 311/2024–41 of 13 February 2025, the Supreme Administration Court expressed a clear opinion on the judgment above and ruled that the general measure in question is definitely not null and void, but may only be an illegal/illegally issued general measure.

The entire case was thus returned to the Regional Court in Ústí nad Labem, which again upheld Lovochemie's action against the method applied in Lovosice to the process of increasing taxes in the Litoměřice district. And it stated that the Town Council's procedure established for the process of calculating the local coefficient of real estate tax was not correct. This judgment is final and conclusive, even if a cassation appeal is lodged, its legal force will remain unchanged.

Part of the reasoning that was presented by the Regional Court in Ústí nad Labem is in contradiction to the opinion of the Ministry of Finance. Once again, the court ruled that, in 2024 (for the year 2025), it was not possible to calculate

the local coefficient in accordance with a general measure, as the relevant legal provisions only came into effect this January. Nevertheless, the Regional Court also presented other reasons for its decision, namely the fact that the reasoning for the measure in question shows some mistakes.

According to the most recent statement of the town council members, the Town Council intends to appeal again to the Supreme Administration Court. As stated by the Mayor, the Town Council acted in strict accordance with the instructions received from the Financial Administration. If it had failed to do so, the city budget would be short of at least CZK 50 million. According to calculations of the Lovosice Town Council, the share of the chemical plants Lovochemie and Preol is about CZK 10 million. "According to the court, the measure had been issued before the relevant act came into effect. Other town councils and municipalities applied the same procedures, and this is the reason why we intend to appeal to the Supreme Administration Court. We followed the official guidelines..." the Town Council's statement reads.

We now await the second round at a higher level.

Its ruling will be crucial – not only for the town of Lovosice but also, for example, for the town of Rokycany, Plzeň, Pardubice, and Žďár nad Sázavou. And why? Because these towns also issued general measures in respect of the real estate tax in 2024. And if the Supreme Administration Court upholds the Regional Court's decision, it would result in a situation when those measures become also null and void and their city budgets are short of significant amount of revenues.

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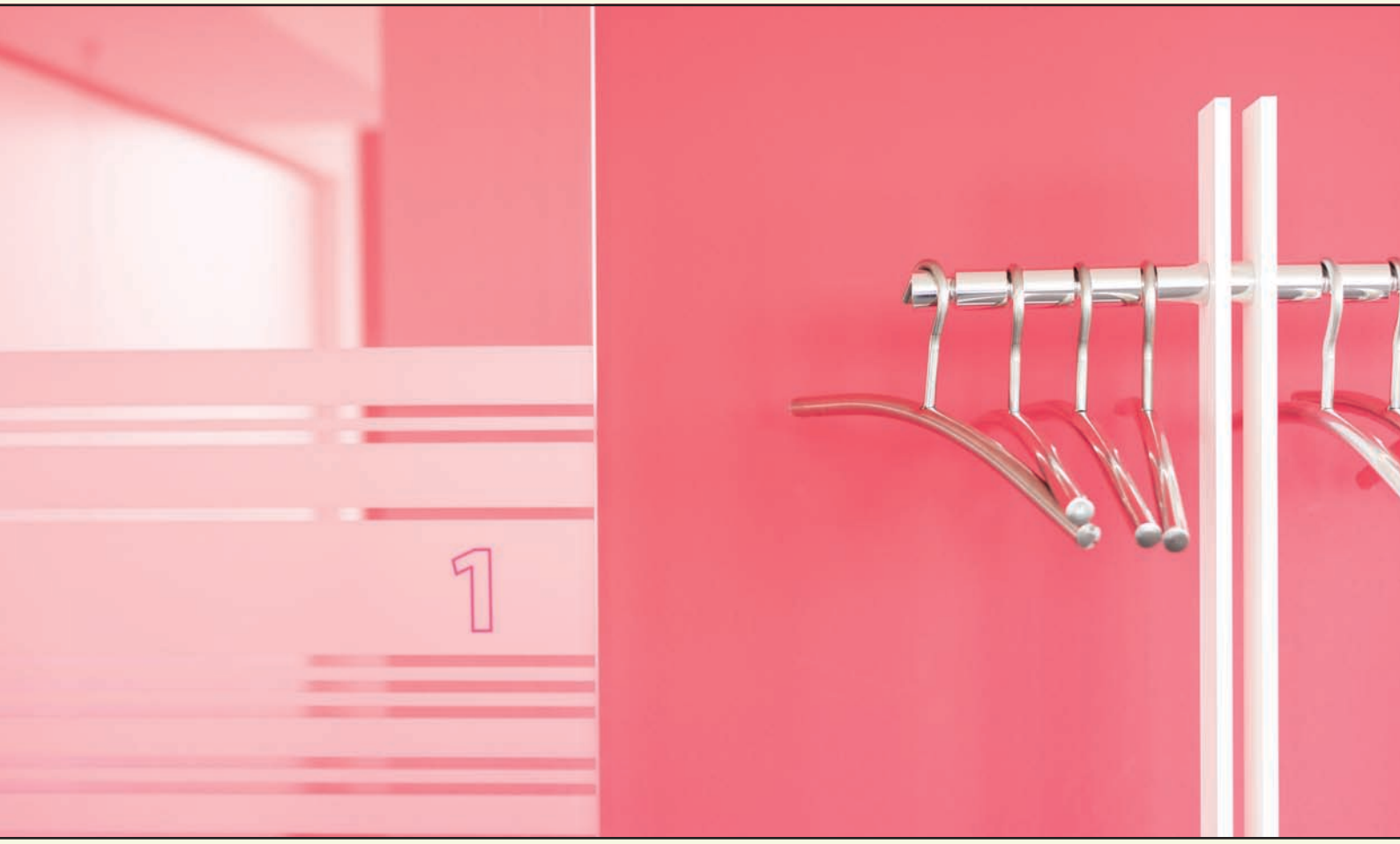

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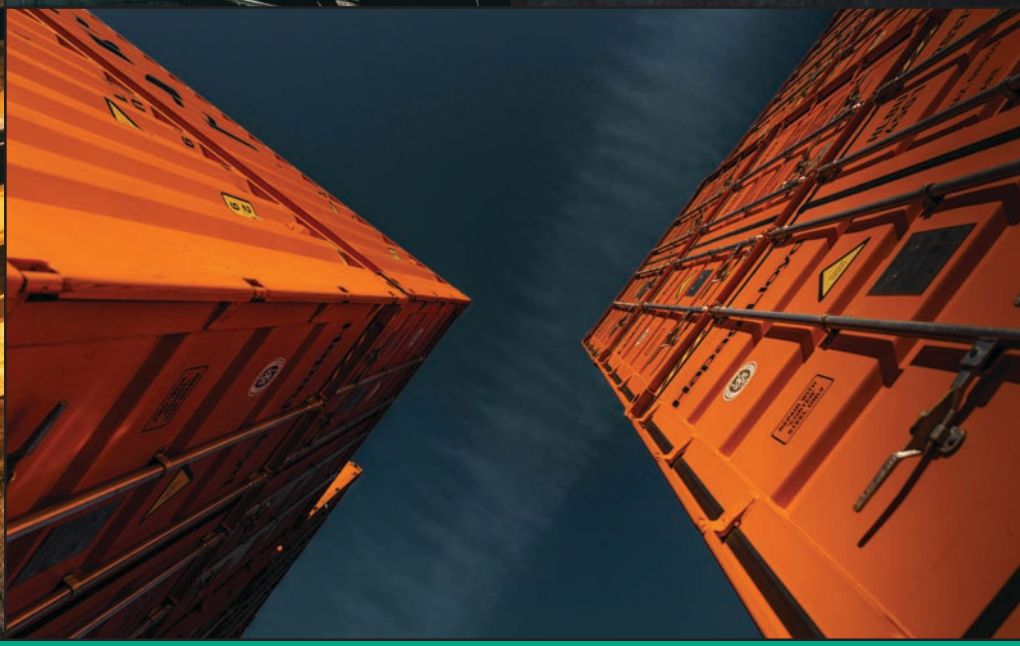

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