

# czech. business & trade

economic bi-monthly

- The Czech Economy in 2006
- A Few Comments on Taxes
- The Most Important Changes in Czech Law in 2007



*Liberec*  
Region

03-04  
2007

# The Most Important Changes in Czech Law in 2007

Several major pieces of legislation approved last year have come or will come into effect during 2007. On 1 January it was the new Labour Code (Act No. 62/2006 Coll.) and the new Building Act (Act No. 83/2006 Coll.) and on 1 July it should be the Insolvency Act (Act No. 182/2006 Coll.), replacing the still valid Act on Bankruptcy and Composition, which is based on different principles.

It has to be noted that on 5 February 2007, the Government approved a bill which postpones the effect of the Insolvency Act from 1 July 2007 to 1 January 2008. The reasons for the postponement include a delay in legislative and technical work for the establishment of the insolvency register, which is part and parcel of the law and the reform of bankruptcy legislation cannot be launched without it. The bill must now undergo a standard legislative procedure (i.e. it must be adopted by both chambers of the Czech Parliament, be signed by the president and published in the Collection of Laws).

The new Act on Sickness Insurance (Act No. 187/2006 Coll.) was originally scheduled to come into force on 1 January 2007, but was postponed until 1 January 2008. The duty of employers to pay wages to their employees for the first 14 days in which they are temporarily unable to work (this duty is set out in the new Labour Code) has been postponed to the same date. Certain changes in legislation concerning the assessment basis for the payment of contributions to social security and general health insurance have been introduced by a law accompanying the Labour Code (Act No. 264/2006 Coll.), and several changes have also taken place in tax law.

Another change in effect as of 1 January is the amount of the minimum wage, where the basic rate for the stipulated 40 working hours per week is now CZK 48.10 (ca EUR 1.6) per hour or CZK 8,000 (ca EUR 266.6) per month (Government Regulation No. 567/2006 Coll.).

## ■ INSOLVENCY ACT

As insolvency proceedings in the Czech Republic are considered among the longest and most questionable in Europe, the adoption of new and modern bankruptcy legislation was long overdue. The new Act on Insolvency and Methods of Resolution (the Insolvency Act) is to accelerate proceedings and make them more efficient by creating a scope for a differentiated approach, eliminating some of the phases of the proceedings as well as steps that facilitated intentional procrastination, and allows for shortened proceedings. The legislation still in force has a number of drawbacks. Liquidation procedures for resolving insolvency take precedence over restructuring procedures. Creditors have no influence over the choice of procedures for resolving insolvency nor over the selection of an insolvency estate administrator, and their possibilities to oversee the administrator are limited. The law insufficiently defines the relation of the administrator to the creditors' committee, the method of selecting the administrator is not optimal, and the qualification requirements for the exercise of this function need to be made stricter.

The new law replaces two different procedures, bankruptcy procedure and composition procedure, with one insolvency procedure that is differentiated only after the ruling on insolvency, in such a way that there is a special procedure for each of the methods of resolving insolvency. Some of the regulations are

common for all the methods. Besides bankruptcy, the Act introduces a new basic method of resolving insolvency based on restructuring - reorganisation. New methods also include debt discharge and minor bankruptcy. The insolvency of financial institutions is subject to special rules. Debtors are given a chance to overcome threatened insolvency by the principle of a moratorium, replacing a protective period that did not formerly prove very practical.

The new Act extends the rights of creditors and amends the overall concept of their participation in the proceedings. Creditors will have a direct influence on the choice of the method of resolving the debtor's insolvency, of the person of the insolvency administrator, and the monitoring function of creditors' committees will be enhanced. The law also introduces an insolvency register kept by the Ministry of Justice, which is to inform of insolvency proceedings and thus ensure their transparency. The register will include a list of insolvency administrators, whose position is determined by a special Act on Insolvency Administrators (Act No. 312/2006 Coll.).

## ■ BUILDING ACT

A major aim of the new Building Act is to accelerate and simplify the approval process, especially for small buildings that may now be constructed on the basis of a mere notification instead of the former planning permission. The new legislation should also significantly reduce the paperwork connected with the preparation of large construction projects.

The Act drops the requirement for a standard procedure of final approval for completed structures being put into use, while check-ups at construction sites are to be all the stricter and more systematic, even after completion. The law enables persons conducting check-ups to take operative measures on site. In addition, the new Act introduces approved inspectors and gives them certain powers of building authorities. Besides changes in building permission proceedings, the law also introduces a number of amendments in planning permission and decision-making.

According to the author of the Act, the Ministry for Regional Development, the new legislation is expected to enhance legal certainty and facilitate decisions for investors on the placement of an investment. Only practical application will show whether this intention will materialise.



*Several important legal regulations took effect in 2007*

#### ■ LABOUR CODE

The new Labour Code, replacing the former Labour Code that was in effect from the mid-1960's, is to liberalise labour law relations. However, it neither simplifies nor streamlines the former legislation. Though to a limited extent, on the general level it sets out the principle of "that which is not prohibited is permitted", and at the same time respects the principle of equal treatment. The law also enhances the contractual freedom of parties (e.g. by allowing the conclusion of innominate contracts in accordance with the Civil Code in labour law relations), but at the same time contains a number of regulations from which they may not depart.

As regards employment relationships, the new law does not differentiate between the so-called main and subsidiary employment relationships. It also brings changes concerning the probation period (the period of impediments to work is no longer included in the probation period even in a limited extent). Appointment may establish an employment relationship only in the case of specified entities from the non-business field, other employment relationships established by appointment before 31 December 2006 are automatically considered from 1 January 2007 as established by a contract of employment.

The Code contains a new definition of working hours and stand-by work and introduces the so-called working hours account as a possible method for an

uneven distribution of working hours. The set weekly working hours must not exceed 30 hours per week for employees under 18, even in the case of several labour relationships. Another novelty is that wages shall not be negotiated with a view to possible overtime work. The notice period is unified to 2 months, severance pay is increased to three times average earnings (in case an employment relationship is terminated because an employee may not continue performing his/her work because of a work injury or occupational disease it is twelve times average earnings). The Code abolishes the duty of an offer of another position to an employee before dismissal. It also changes the rules for contracts on work done outside of an employment relationship.

#### ■ CHANGES IN TAX RULES

An amendment to the Income Taxes Act (Act No. 586/1992 Coll.) reacts to the adoption of the new Labour Code, which now includes regulations on the reimbursement of travelling expenses. In the case of employees of businesses, travelling expense reimbursements up to the limit of reimbursements set out by the Labour Code for "civil servants" are not taxable income. For employers it is a tax deductible expense whenever the travelling expense reimbursement is paid in accordance with the Labour Code. In addition, benefits paid by employers to employees beside salaries under the conditions stipulated by law shall newly be

admitted as tax deductible expenses of employers.

An amendment to the Act on the Administration of Taxes and Fees (Act No. 337/1992 Coll.) has changed the penalisation of taxable persons for late payments of taxes. On an audit conducted by the tax authority, the penalty as of 1 January 2007 is set at 20 % of the additionally assessed tax liability (or 5 % in case of tax loss decrease). At the same time, interest will always be charged on late payments, calculated on the basis of the repo-rate declared by the Czech National Bank and increased by 14 percentage points.

#### ■ CHANGES IN CONTRIBUTIONS TO SOCIAL SECURITY AND HEALTH INSURANCE

A substantial change in the social security and health insurance system is represented by the new definition of the assessment base of employees for both types of contributions, which now mirrors the income tax base. The assessment base includes the taxable income of individuals that are not exempt from tax and are carried by the employer to the employee's account. There are only a few exceptions to this rule.

**Alena Břicháčková**, Lawyer  
**Dita Malíková**, Tax Adviser

PETERKA & PARTNERS  
(e-mail: brichackova@peterkapartners.cz)