

Abstract

Corporate income tax deductibility of interest after the implementation of ATAD

Over the past few years, the media and the general public have focused heavily on tax avoidance of large corporations such as Apple and Google. OECD (2012) issued BEPS report in which it described tax base erosion and profit shifting methods. The tools described therein include also excessive use of foreign capital and the associated tax shield. The regulations and recommendations as set out in the BEPS report were implemented in the European ATAD Directive in 2016. This thesis focuses on the limitation of deductibility of interest, especially from the perspective of the analysis of the Czech implementation with regard to the regulation set out in the BEPS report and the ATAD Directive and fulfillment of their objectives. The main goal of the thesis is to assess the fulfillment of the objectives set out in the BEPS report and in the ATAD Directive within their Czech transposition, to analyze the Czech regulation and to point out possible shortcomings of the Czech regulation and problems related to the implementation of new rules limiting the deductibility of borrowing costs.

The thesis is divided into four chapters. The first chapter focuses on the problematics of interest and other borrowing costs deductibility, including the issue of low capitalization and hybrid mismatches. The second chapter focuses on the legal regulation of the deductibility of interest and borrowing costs in the Czech Republic. The third chapter describes more specifically the BEPS report and the limitation of the deductibility of interest therein, the ATAD Directive and the relationship between the two regulations. Furthermore, the chapter contains a comparison of the Czech implementation of the ATAD Directive with the implementation of selected EU member states for the purpose of comparison of the extent to which transpositions agree, how areas with a looser regulation in the Directive have been resolved and whether the Directive has been implemented by Member States on time. The fourth chapter is focused on selected conceptual and interpretative aspects of the new legislation, including the continuing problems of the still valid old regulation and uncertainties in the new legislation limiting the deductibility of interest in compliance with ATAD. The selected conceptual problems are further demonstrated in calculations, which illustrate selected problems on examples and in greater detail.

Key words:

Thin capitalization, ATAD Directive, Limitation of interest deductibility