

The Corporate Income Tax and the European Community Directives Implementation

The purpose of my thesis is to make a comprehensive analysis of the concrete impacts of the implementation of the European Community Directives related to corporate income tax into the Czech legal system.

I decided to focus my attention on the Council Directive n. 90/434/EEC of 23 July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States (hereinafter also as "Merger Directive". I have also analyzed the other three Directives, however not in such a broad scope. The other three Directives are as follows, Parent Subsidiary Directive n. 90/435/EEC, Interest and Royalty Directive n. 2003/49/EC and Savings Directive n. 2003/48/EC. These Directives generally regulate the areas which should have the common tax regulations all over Europe, to remove obstacles of European internal trade effective functioning.

The purpose of Merger Directive is that merger or similar operation does not give rise to any taxation of capital gains calculated by reference to the difference between the real values of the assets and liabilities transferred and their values for tax purposes at the time when the merger or similar operation is realized, but only when such gains are in fact realized. Furthermore the tax provisions and reserves may be carried over regardless the merger or similar operation. However the merger may not be realized only due to the tax reasons, it has to have some economical reason.

Comparing the mergers operations with or without application of Merger Directive, the usage of Merger Directive means lower tax burden or at least tax liability deferral. Furthermore the common tax approach regarding the mergers operations in EU Member States.

The purpose of Parent Subsidiary Directive is to exempt profit distribution between Subsidiary and Parent company from withholding tax. Parent and Subsidiary company are specifically defined by the Directive.

The Interest and Royalty Directive deals with the withholding tax exemption of interest and royalties payments between the associated companies from different Member States.

Finally the Savings Directive deals with the determination of the place of taxation of the interest pay out to the individuals by the European payers.

Seznam klíčových slov / Key words list

Směrnice Evropského společenství / European Community Directive

daň / tax

srážková daň / withholding tax

fúze / merger