

AMENDMENTS OF LAWS RELATING TO THE SUPPORT OF POWER GENERATION  
FROM RENEWABLE POWER RESOURCES NEWS FLASH  
5 NOVEMBER 2010

**The “small government amendment“ to Act no. 180/2005 Coll. providing for the support of power generation from renewable power resources relating to the introduction of levy imposed on the power generated by solar radiation is to be considered in the third session.**

The draft bill of the Czech law providing for the support of power generation from renewable power resources, which introduces levy to be paid by the power producers from the power generated by solar radiation (the so-called “petty amendment“), has been discussed in the second debate in the Assembly of Deputies of the Czech Parliament on **3 November 2010** and will continue to the third session with proposed amendments. The third session and expected final approval by the Chamber of Deputies is to take place on **Tuesday 9 November 2010**.

The draft bill introduces the duty to pay a specific form of tax (i.e. a levy from the proceeds for the photovoltaic energy generated between 1 January 2011 and 31 December 2013. The proposed amendment thus entirely alters the original concept of deduction tax. The levy will apply to the electricity generated by solar power plants put into operation in the period between 1 January 2009 and 31 December

2010, namely to the power generation supported by both the Green Premiums and feed-in tariffs. Exempted are roof-top and on-wall solar power installations on buildings attached to the ground by fixed foundations registered in the Land Register and with an installed output not exceeding 30 kWp. The rate of the levy calculated from the assessment basis, i.e. from the amount of total support provided in the form of feed-in tariffs or Green Premiums, is **26%** applicable to payments via feed-in tariffs, and **28%** applicable to payments via Green Premiums.

The current wording of the draft bill presumes granting subsidies from the state budget to the transmission system operators or regional distribution system operators as to cover the additional costs associated with the support of power generation from renewable resources. The aim is to cover a part of the costs of support of the power generation from renewable resources in cases where the contribution for the support of renewable resources paid in the prices of power would exceed determined level. The Total sum of the funds to be provided from the state budget in the year 2011 will be defined by Government Decree by the end of this year.

The date of effect of the amendment has been proposed as 1 January 2011, whe-

reas the provisions applicable to the funding of the support provided to the distribution system operators will come into effect on the date of promulgation of the Act.

### **Amendment to Act no. 586/1992 Coll. providing for income tax submitted to Senate**

The amendment to the Income Tax Act has been passed on 2 November 2010 by the Assembly of Deputies and submitted to the Senate for consideration. The draft bill brings the following changes in the taxation of photovoltaic power plants:

1. The **income tax holidays** applicable to the year of launch into operation and five consecutive years for the income generated from the operation of ecological power resources (i.e. small water power stations with the output not exceeding 1 MW, wind power installations, heat pumps, solar facilities, facilities generating and exploiting biogas and wood gas, facilities generating power or heat from biomass, facilities producing biologically degradable substances, facilities exploiting geothermic energy) **are repealed** for the following years. Tax payers may apply the exemption for the last time for the taxation period which has commenced in 2010. This means, i.a., that the change will apply also to the tax payers who put the power plants into operation before the amendment comes into effect.

2. Another change concerns the **introduction of a depreciations** for tangible property classified into groups 31.10, 31.20, 32.10, i.e. the technological part of assets consisting namely of solar panels, converters and switch boards, which are

used at least partly for the generation of power from solar radiation and extension of the depreciation period. At the same time, the depreciation period can no longer be discontinued. The deductions are defined as monthly deductions distributed equally over a 240-month period (i.e. 20 years). Technical improvements of the property may be depreciated in 10 years' time at the earliest (the technical improvements of property depreciated each month do not extend the depreciation period applicable thereto).

In cases where the depreciation is commenced before the amendment to the Income Tax Act comes into effect, the **method of depreciation of the tangible property changes at the beginning of the taxation period commencing in 2011**. In such cases, the total depreciation period (240 months) is reduced by the number of calendar months expired after the month in which the tangible property was registered until the end of the taxation period commenced in 2010.

Also extended is also the minimum lease period in which the taxable installments of repayment of solar technologies are leased in the form of **financial leasing**.

The term for consideration of the amendment to the Income Tax Act by the Senate ends on 3 December 2010, approval is to be expected.

**Deputies' Amendment to Act no. 180/2005 Coll. providing for the support of power generation from renewable resources, and Act no. 261/2007 Coll. providing for the stabilization of public budgets in respect of the regulation of the condi-**

### **tions for granting support and taxation of feed-in tariffs and Green Premiums.**

A Deputies' bill currently submitted for comments would bring two fundamental changes. The first one conditions the support provided to the power generation in the form of both feed-in tariffs and Green Premiums with the **transparency of the corporate structure** of the producer's enterprise. The draft bill stipulates limitation of the support applicable to those producers who are joint-ventures with bearer shares. The second change is the taxation of the support provided to exploitation of renewable resources. The taxation is to apply to power generated by the large photovoltaic power plants, i.e. the power plants with the minimum installed output of 30 kWp, which have been launched between 2006 – 2010, as follows:

If the draft bill is passed, the tax rate applicable to power generated by the large power stations would amount to:

- a) CZK 265.00/MWh in stations launched in 2006,
- b) CZK 1,345.00/MWh in stations launched in 2007,
- c) CZK 2,020.00/MWh in stations launched in 2008,
- d) CZK 3,840.00/MWh in stations launched in 2009, and
- e) CZK 6,075.00/MWh in stations launched in 2010.

### **Amendment to Act no. 180/2005 Coll. providing for the support of power generation from renewable**

### **power resources and stipulating the limitation of support provided to power generation from solar radiation has been passed by the Senate and submitted to the President for signature**

The amendment to the Act passed by the Assembly of Deputies in the accelerated regime on 29 October 2010 relating to the further restriction of the support only for new projects of the solar power plants on the buildings, of which we informed you in the preceding Flash News issue, has been passed by the Senate on 3 November 2010 and submitted to the President of the Czech Republic for signature on the same day. The Constitution grants the President a 15-day term to return the draft bill with comments to the Assembly. Should the Assembly persist (*stare decisis*) in the wording of the returned bill by working majority of all Members, the bill is promulgated. However, if the President fails to sign or veto the draft bill within the 15-day term, the bill is promulgated *ipso iure*. We do not expect a presidential veto and will inform you about the next steps in our upcoming issue of the News Flash.

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