

# INSTRUCTIONS

## for completing Attachment no. 3 of Part II of the Corporate Income Tax Return

Attachment no. 3 of part II of the corporate income tax return is completed by the taxpayer provided the taxpayer is allowed or required to proceed in accordance with Sections 23e, 23g, 23h or 38fa of the law no. 586/1992 Coll., the Income Tax Act, as amended (hereinafter "the Act").

### Table A. Allocation of amounts increasing the trading result (net profit) or the difference between income and expenditure stated in row 63

- Row 1 Pursuant to Section 23e, subsection 1 of the Act please give the amount of positive difference between excessive borrowing expenditures and the limit of deductibility for excessive borrowing expenditures, which is the higher value of the amount that equals 30% of tax profit before interest, taxation and depreciation (Section 23e, subsection 5 of the Act) or the amount of 80 000 000 CZK. Limit for restricting the deductibility of excessive borrowing expenditures is used for both, the tax period and also for period for which the tax return is being submitted. The amount of the increase has to equal to the amount given in column 4 of Table I of Attachment no. 3 of Part II.
- Row 2 Give the amount of increase in the trading result or the difference between income and expenditure as a result of transferring the assets without change in ownership from the Czech Republic abroad pursuant to Section 23g, subsection 1 of the Act to countries pursuant to Section 38zg, subsection 1 of the Act.  
Transferring the assets without change in ownership is for the purpose of the income tax considered as a self-transfer for valuable consideration of the assets at a price that would have been negotiated between unrelated parties in usual business relationship under the same or similar conditions. The above mentioned is valid also for row 3.  
The amount of the increase has to be equal to the positive amount given in row 7, column 4, table II, Attachment no. 3 of Part II.
- Row 3 Give the amount of increase in the trading result or the difference between income and expenditure as a result of transferring the assets without change in ownership from the Czech Republic abroad pursuant to Section 23g, subsection 1 of the Act outside the countries pursuant to Section 38zg, subsection 1 of the Act.  
The amount of the increase has to be equal to the positive amount given in row 7, column 4, table III, Attachment no. 3 of Part II.
- Row 4 Give the amount of increase in the trading result or the difference between income and expenditure pursuant to Section 23g, subsection 5 of the Act as a consequence of reclassifying the assets without change in the ownership from other EU member state to the Czech Republic, when the reclassifying is subject to taxation in this country at the transferring the assets without change in the ownership.
- Row 5 Give the amount by which is the taxpayer required to increase the trading result or difference between income and expenditure pursuant to section 23h of the Act as a result of different legal classification.
- Row 6 Give the amount increasing the trading result or the difference between income and expenditure pursuant to Section 38fa, subsection 1 or 2 and 8 of the Act as a result of taxation of included income from activities of a controlled foreign company (Section 38fa, subsection 4 of the Act). The activities of the controlled foreign company and disposal of its assets that generate included income (Section 38fa, subsection 6 of the Act) are for the purpose of income tax where the requirements of Section 38fa subsection 1 letter a) and b) of the Act are met considered as carried out by the controlling company (Section 38fa, subsection 3 of the Act) within the territory of the Czech Republic. Activities of the controlled company that is at the moment of the end of its tax period a tax resident of a country entered in the EU list of jurisdictions non-cooperating in the field of taxation approved by the Council of EU or a permanent establishment located in such a country, and disposal of its assets from which arises income in that tax period are for income tax purposes pursuant to Section 38fa subsection 2 of the Act considered as carried out by the controlling company within the territory of the Czech Republic. Countries entered in this list will be published by the Ministry of Finance in the Financial Newsletter (Finanční zpravodaj).  
The amount has to be equal to the amount given in row "In total", table IV, Attachment no. 3 of Part II. for all controlled foreign companies.

The total amount in row 7 of the table has to equal to the amount in row 63, Part II. Amounts in Table A could not be in negative values.

### Table B. Allocation of amounts decreasing the trading result (net profit) or the difference between income and expenditure stated in row 163

- Row 1 Pursuant to Section 23e, subsection 6 of the Act, please give the amount of decrease in the trading result or the difference between income and expenditure by which was for the preceding tax period or period for which the tax return is being filed pursuant to Section 23e, subsection 1 of the Act the trading result or the difference between income and expenditure increased, but not more than is the amount of positive difference between the limit of deductibility for excessive borrowing expenditures and excessive borrowing expenditures.  
The amount of the decrease has to be equal to the amount given in, column 3, table I, Attachment no. 3 of Part II and may not together with the previous reduction exceed the amount stated in column 1, table I, Attachment no. 3 of Part II.
- Row 2 Give the amount of decrease in the trading result or the difference between income and expenditure as a result of transferring the assets without change in ownership from the Czech Republic abroad pursuant to Section 23g, subsection 1 of the Act to countries pursuant to Section 38zg, subsection 1 of the Act.  
Transferring the assets without change in ownership is for the purpose of the income tax considered as a self-transfer for valuable consideration of the assets at a price that would have been negotiated between unrelated parties in usual business relationship under the same or similar conditions. The above mentioned is valid also for row 3.  
The amount has to be equal to the negative amount given in row 7, column 4, table II, Attachment no. 3 of Part II. The amount of decrease is given without the negative sign.  
The example of inserting the amount in this row:  
row 7, column 4, table II, Attachment no. 3 of Part II. ....- 30 000 CZK  
row 2, table B, Attachment no. 3 of Part II. .... 30 000 CZK

The provision of Section 23g of the Act is in accordance with point 12 of the Transitional provisions to law no. 80/2019 Coll. not used for transferring the assets without change in ownership made in taxable periods that started before 1 January 2020.

Row 3 Give the amount of decrease in the trading result or the difference between income and expenditure as a result of transferring the assets without change in ownership from the Czech Republic abroad pursuant to Section 23g, subsection 1 of the Act outside the countries pursuant to Section 38zg, subsection 1 of the Act. The amount has to be equal to the negative amount given in row 7, column 4, table III, Attachment no. 3 of Part II. The amount of decrease is given without the negative sign.

Row 4 Give the decrease of the trading result or difference between income and expenditure pursuant to section 23g, subsection 5 of the Act as a result of reclassification of the assets without a change in ownership from a different EU member country to the Czech Republic, when this reclassification is liable to tax in this country and the assets without a change in the ownership are transferred.

Row 5 The amount of decrease in the trading result or the difference between income and expenditure pursuant to Section 38fa, subsection 8 of the Act may not exceed the amount by which was increased the difference between income and expenditure in the considered tax period in row 6, table A, Attachment no. 3 of Part II and at the same time it has to be equal to the value given in row 1, table V, Attachment no. 3 of Part II.

Increase and decrease in the trading result or the difference between income and expenditure is considered separately for each controlled foreign company.

The total amount in row 6 of the table has to equal to the amount in row 163, Part II. Amounts in Table B could not be in negative values.

Regarding tables I. to V. only the tables for which there is a substance for completing in relation to Table A or B are filled in by the taxpayer.

#### **Table I. Summary of the adjustments to the trading result (net profit) or the difference between income and expenditure pursuant to Section 23e of the Act**

The table is filled in by a taxpayer, that is for the tax period considered or for the period for which is the tax return being submitted, required to increase the trading result (net profit) or the difference between income and expenditure by the amount of the positive difference between the excessive borrowing expenditures and the limit of deductibility of the excessive borrowing expenditures, or which decreases the trading result (net profit) or the difference between income and expenditure by the amount of the positive difference between the excessive borrowing expenditures and the limit of deductibility of the excessive borrowing expenditures, that increased the trading result (net profit) or the difference between income and expenditure in the preceding tax periods or periods for which is the tax return submitted.

The table is filled in also by a taxpayer that is in the successive tax periods or the periods in which the tax return is filed entitled to decrease the trading result (net profit) or the difference between income and expenditure by the amount of the positive difference between the excessive borrowing expenditures and the limit of deductibility of the excessive borrowing expenditures that increased the trading result (net profit) or the difference between income and expenditure in the preceding tax periods or periods for which is the tax return submitted.

In column 1 give the sum of all amounts by which was in the preceding tax periods or periods for which is the tax return filed increased the trading result (net profit) or the difference between income and expenditure.

In column 2 give the sum of all amounts by which was in the preceding tax periods or periods for which is the tax return filed decreased the trading result (net profit) or the difference between income and expenditure. The amount together with the amount in column 3 cannot exceed the amount in column 1.

In column 3 and 4 in accordance with the given algorithm state the amounts increasing or decreasing the trading result (net profit) or the difference between income and expenditure for the considered tax period or for the period for which is the tax return filed. The amount in column 3 has to correspond to the amount given in row 1 of Table B of Attachment no. 3 of Part II and the amount in column 4 has to correspond to the amount given in row 1 of Table A of Attachment no. 3 of Part II. It is not possible at the same time to fill in column 3 and 4.

In column 5 give the total amount by which it is possible to decrease in the successive tax periods or periods for which is the tax return filed the trading result (net profit) or the difference between income and expenditure pursuant to Section 23e, subsection 6 of the Act. The amount corresponds to the algorithm of the calculation: column 1 – column 2 – column 3 + column 4. The application of the decrease in the trading result (net profit) or the difference between income and expenditure is not restricted by the number of taxable periods or periods for which is the tax return filed.

If the taxpayer for the taxable period or for the period for which is the tax return filed does not increase or decrease the trading result (net profit) or the difference between income and expenditure pursuant to Section 23e of the Act and at the same time it fully used the amount, by which it was possible in the successive taxable periods to decrease the trading result (net profit) or the difference between income and expenditure, it is not required to fill in column 1 and column 2, Table I, Attachment no. 3 of Part II. If to the taxpayer in some of the successive taxable periods or periods in which the tax return is filed arises the obligation to proceed pursuant to Section 23e of the Act, he will give in column 1 and column 2 the total amounts including the amounts that were reported in the preceding taxable periods or periods for which is the tax return filed.

#### **Table II. Allocation of the total amount of the adjustments to the trading result (net profit) or the difference between income and expenditure resulting from the transferring the assets without change in ownership to countries pursuant to Section 38zg, subsection 1 of the Act**

In the table the taxpayer gives information on assets transferred in the considered tax period or in the tax period for which is the tax return filed without change in ownership from the Czech Republic abroad pursuant to Section 23g, subsection 1 of the Act, **in aggregate figures for all countries in which it is possible to ask for splitting the tax payment in instalments pursuant to Section 38zg, subsection 1 of the Act**, divided according to each asset group.

In column 2 give the sum of all amounts of the market prices that would have been negotiated between unrelated parties in usual business relationship under the same or similar conditions when transferring the assets without change in ownership from the Czech Republic abroad pursuant to Section 23g, subsection 1 of the Act. In row 7 give the sum of rows 1 to 6.

In column 3 give the sum of amounts of related tax expenditures that may be in accordance with the law deducted as expenditures incurred in the acquisition, safeguarding and maintenance of taxable income when selling the assets transferred in accordance with Section 23g, subsection 1 of the Act. In row 7 give the sum of rows 1 to 6.

In column 4 give the difference between figures in column 2 and column 3. The value given in row 7 in column 4 has to equal to the difference between values in column 2 and column 3 given in row 7, while this value has to correspond to the sum of rows 1 to 6 given in column 4. The positive value is given as a positive number, the negative value is given as a number with negative sign (-).

The positive value in row 7, column 4 is transferred to row 2, table A, Attachment no. 3 of Part II. The negative value in row 7, column 4 is transferred to row 2, table B, Attachment no. 3 of Part II **without** the negative sign (-).

**Table III. Allocation of the total amount of the adjustments to the trading result (net profit) or the difference between income and expenditure resulting from the transferring the assets without change in ownership outside the countries according to Section 38zg, subsection 1 of the Act**

In the table the taxpayer gives information on assets transferred in the considered tax period or in the tax period for which is the tax return filed without change in ownership from the Czech Republic abroad pursuant to Section 23g, subsection 1 of the Act, **in aggregate figures for all countries in which it is not possible to ask for splitting the tax payment in instalments pursuant to Section 38zg, subsection 1 of the Act**, divided according to each asset group.

In column 2 give the sum of all amounts of the market prices that would have been negotiated between unrelated parties in usual business relationship under the same or similar conditions when transferring the assets without change in ownership from the Czech Republic abroad pursuant to Section 23g, subsection 1 of the Act. In row 7 give the sum of rows 1 to 6.

In column 3 give the sum of amounts of related tax expenditures that may be in accordance with the law deducted as expenditures incurred in the acquisition, safeguarding and maintenance of taxable income when selling the assets transferred in accordance with Section 23g, subsection 1 of the Act. In row 7 give the sum of rows 1 to 6.

In column 4 give the difference between figures in column 2 and column 3. The value given in row 7 in column 4 has to equal to the difference between values in column 2 and column 3 given in row 7, while this value has to correspond to the sum of rows 1 to 6 given in column 4. The positive value is given as a positive number, the negative value is given as a number with negative sign (-).

The positive value in row 7, column 4 is transferred to row 3, table A, Attachment no. 3 of Part II. The negative value in row 7, column 4 is transferred to row 3, table B, Attachment no. 3 of Part II **without** the negative sign (-).

**Table IV. Allocation of the total amount of the increase in the trading result (net profit) or the difference between income and expenditure pursuant to Section 38fa, subsection 1 or 2 and 8 of the Act**

The taxpayer gives information on the increase in the trading result (net profit) or the difference between income and expenditure pursuant to Section 38fa, subsection 1 or 2 and 8 of the Act for each controlled foreign company separately.

**Name of the controlled foreign company** – give the business name of the legal entity as recorded in public registers, including appendix indicating its legal form, if appropriate also the phrase "in liquidation". Legal entities not entered in public registers give names under which they were established or founded; other entities give the name they use for acting with third persons.

If the row range is not sufficient for entering the full name of the company or the taxpayer, give the abbreviated form and give the full name of the company or the taxpayer in a special attachment.

**Identification number** – give the identification number (the identifier for tax purposes) of the controlled foreign company if the number has been assigned.

**Country (code)** – the country code is entered according to the Czech Statistical Office Communication of 18 December 2003 No. 489/2003 Coll. on country codes publication (CZEM) as amended (see also the List of country codes on the web page <http://www.financnisprava.cz>, only the 2-letter code is used with capital alphabet letters).

By the amount is meant the total increase in the trading result (net profit) or the difference between income and expenditure for each controlled foreign company separately in the considered tax period or the period for which is the tax return filed pursuant to Section 38fa, subsection 1 or 2 and 8 of the Act, with the exception of the included income according to Section 38fa, subsection 6 letter c) of the Act that is in the case of controlling company liable to tax at the separate tax base pursuant to Section 20b of the Act provided it is not tax exempt.

The value "In total" has to equal to the value in row 6 of Table A Attachment no. 3 of Part II. The values in column "Amount" may not have negative values.

If the number of pre-printed rows is not sufficient for inserting all controlled foreign companies, enter them in a separate attachment - the data from column "Amount" will be taken into account when calculating the value "In total".

**Table V. Decrease in the trading result (net profit) or the difference between income and expenditure pursuant to Section 38fa, subsection 8 of the Act**

When entering the data in the table use the data from the Separate attachment to Table V Attachment no. 3 of Part II (printed form 25 5404/H MFin 5404/H - model no. 3) that is filled in for each controlled foreign company separately.

**Row 1** In row 1 enter the total of the amounts by which was the trading result (net profit) or the difference between income and expenditure decreased for the considered tax period or for the period for which is the tax return filed stated in column 4 in row 8 of the each separate attachment.

**Row 2** Insert the total of the amounts by which it is possible to decrease the trading result (net profit) or the difference between income and expenditure in the successive tax periods or periods for which is the tax return filed stated in column 5 in row 8 of the each separate attachment.