

Tax Flash

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Tax Flash is an electronic newsletter prepared by PricewaterhouseCoopers Česká republika, s.r.o. to keep you up to date on the latest tax and legal news. A more complex look at key tax changes and their impact on your business is provided in our monthly newsletter, Tax & Business News.

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Are you ready for an amendment to the VAT Act?

The Parliament of the Czech Republic will discuss the draft of the VAT Act amendment in a session to be held on 26 October 2010. The VAT Act amendment which is expected to come into effect on 1 January 2011 is now undergoing the usual approval process.

The VAT act amendment introduces several important changes, such as joint responsibility for the payment of VAT and a local reverse-charge, as instruments in the fight against tax evasion. Some of the proposed changes implement new EU directives and others amend the existing provisions of the law in line with valid European legislation.

Below we introduce a summary of the most significant changes.

Bad debt relief

Creditors with long-term receivables will be allowed to correct the output VAT provided an insolvency proceeding against the debtor has started.

The VAT payer can make corrections only for receivables which arose 6 months before the bankruptcy court decision at latest. The VAT Act amendment further provides that the creditor and the debtor must not be related persons. The amendment also deals with situations where the receivable is subsequently settled, partially or fully, or it is transferred.

VAT on bad debts will be refunded on condition that a document supporting the VAT correction relating to the receivable is delivered to the debtor. The creditor needs to file copies of these documents, including VAT records as an attachment to the VAT return.

Local reverse-charge

One of the measures aimed against tax evasion is the transfer of the VAT liability for certain taxable supplies to the recipient of the supply, i.e. the introduction of local reverse-charge mechanism.

Local reverse-charge, which is currently used for supplies of gold, will be extended to supplies of emission permits and scrap. A local reverse-charge mechanism will also apply to construction and assembly work with effect from 1 January 2012. In addition, the Ministry of Finance is currently negotiating with the European Commission for permission to apply reverse-charge on local supplies of fuels.

The VAT Act amendment requires that suppliers and purchasers keep records of supplies which are subject to local reverse-charge and file them within the same period for filing VAT returns.

Joint responsibility

The VAT Act amendment also proposes joint responsibility for the payment of VAT on local supplies. If the VAT payer who made the supply does not pay VAT, then the VAT can be exacted from the recipient of the supply. The fact as to whether the recipient knew, or should, or might have known that the VAT payer would not pay the VAT will be considered by the tax administrator. The burden of proof lies with the tax administrator.

Joint responsibility will apply also in the situation where the agreed consideration for a taxable supply apparently differs from the arm's length price and the business parties are unable to prove an economic justification for the difference.

In the event that a VAT payer has doubts about a supplier the VAT Act amendment allows him to pay the VAT on the supply received directly to the tax administrator. The VAT will be received in a special deposit account from where it will be transferred to the personal account of the supplier on the due date. If the VAT is settled by the supplier in the normal way, the VAT overpayment will be used to cover other underpayments of the supplier.

Correction of VAT base and corrective tax document

In future, VAT base and VAT will have to be adjusted in all cases where a credit or debit note are currently issued. For the purpose of the correction the VAT payer will in future be obliged to issue a corrective tax document. The law newly specifies the essentials of a corrective tax document. In practice, the VAT payer will have an obligation to issue a corrective tax document in all situations where he allows an additional discount or goods are returned.

According to the VAT Act amendment, the obligation to correct VAT deductions will no longer arise upon receipt of a tax document but from the moment the VAT payer learned of the circumstances decisive for the correction. Therefore, if a VAT payer returns goods, he is obliged to correct the VAT deduction in the VAT return for the taxable period when he returned the goods.

The VAT Act amendment also provides rules for VAT base and VAT corrections forced by an incorrect application of VAT (e.g., for reasons of incorrect determination of place of taxable supply). Corrections will need to be made in additional VAT returns.

Stricter rules for entitlement to VAT deduction

According to the VAT Act amendment a VAT payers will lose the entitlement to claim a full input VAT deduction on the acquisition of long-term assets if the assets are used for both business and private purposes. The proposed change will affect for example input VAT deductions for company cars used by employees also for private purposes.

At the acquisition of short-term assets (e.g. notebooks, cell phones) VAT payers will still be allowed to claim full input VAT deductions and subsequently tax the use of the asset for non-business purposes.

The VAT Act amendment provides for a specific rule for input VAT deduction for self-created long-term assets in the event that the assets are used for both business and private purposes. When the asset starts to be used the VAT payer declares and pays the VAT and, at the same time, claims entitlement to input VAT deduction to a partial extent corresponding with the purpose of the asset's use. The entitlement to VAT deduction will not be affected by different coefficients in the years when the asset was created. For the purpose of this provision the VAT Act amendment introduces a new definition of long-term self-created asset which includes also its technical appreciation.

Adjustment of VAT deduction for real estate

According to the VAT Act amendment, the period for VAT deduction adjustments for real estate will be extended from the current 5 years to 10 years. For the purpose of the adjustment the fact of whether the asset was used for different purposes only during a part of the calendar year will be taken into consideration.

VAT payers who claimed input VAT deductions before 31 December 2010 will proceed according to the current rules.

VAT deduction adjustment for other assets

VAT deduction claimed on other than long-term assets (e.g. low value assets or stock) will newly be subject to adjustments if in the period for claiming the input VAT deduction (i.e. within 3 years) the asset was used for other business purposes than those considered while claiming the original deduction. The VAT payer will make a single adjustment of VAT when the asset is firstly used for other purposes.

Commercial samples and promotional articles

The amendment restricts claims for input VAT deduction for commercial samples and promotional articles if these are provided in connection with VAT exempt supplies without credit. Newly, VAT payers will not be allowed to claim input VAT deductions on their acquisition.

Tax document for the purpose of claiming input VAT deductions

In future, the VAT input deductions on local supplies cannot be claimed if the supporting tax document does not contain the VAT identification number of the provider or recipient of the supply or does not show the information decisive for determining the VAT base and VAT.



By contrast, in a situation where the VAT payer is the person liable to declare and pay VAT, e.g. at the acquisition of goods from another EU Member State, the entitlement to claim input VAT deduction is not conditional on holding a tax document but can be proved by other means.

EC Sales List

The VAT Act amendment proposes that VAT payers have the possibility to file EC Sales Lists in a form of data message without certified electronic signature provided the related e-form signed by the authorized person is delivered to the Tax Office within the period for filing EC Sales List.

Change in rules for determining place of taxable supply

The rule for determining the place of supply for gas supplies via gas systems and supplies of electricity will newly apply also to supplies of heat and cold.

The VAT Act amendment implements the EU Council Directive 2008/8/ES based on which the place of taxable supply for services related to cultural, sports, scientific or educational events and their organizing is in the country where the recipient of the service is established if provided to a VAT payer. By contrast, the place of taxable supply for services consisting of authorization for entrance to the above referred events will be in the place where the event is held.

Change in determination of tax point for selected services

For services having a place of supply in the Czech Republic, rendered by a person registered for VAT in another EU Member State or by a foreign person, the obligation of Czech VAT payers to declare and pay VAT will no longer arise on the issuance of a tax document or completion of data on the tax document received/in VAT evidence. The VAT payer will have an obligation to declare and pay VAT on the date the service is provided or on the last day of the month in which the payment for the service was made whichever occurs earlier.

For services with a place of supply outside the Czech Republic, the VAT Act amendment proposes that the obligation to declare the supply does not arise any more from the issuance of a tax document. Instead, the VAT payer will declare the supply on the day on which the supply was provided or on the day on which the payment was received whichever occurs earlier.

If the service is provided during period of more than 12 calendar months, the supply is deemed to be provided at the last day of each calendar year at the latest. Therefore, the VAT payer will not be able any more to postpone his obligation to declare and pay VAT to the following year.

The period for VAT exemption of real estate transfer

Newly, the 3 years period for VAT exempting of real estate will be linked to the purpose for which the real estate is used. In practice, it means that e.g. for industrial properties rebuilt into residential units the period starts from the issuance of building approval granted for the new use of the property, i.e. for dwelling purposes.

Penalties for failure to register for VAT

If persons established or carrying out business in the Czech Republic fail to comply with the obligation to register for VAT, the tax administrator will in future determine their VAT liability in an alternative way. The proposed measure means stricter penalties compared to the present.

The VAT Act amendment also proposes that the tax administrator is allowed to VAT de-register a VAT payer carrying out only VAT exempt supplies without credit.

VAT exemption on imports of goods

The VAT Act amendment specifies conditions for VAT exempting of goods imported from a third country whose dispatch or transport ends in another EU Member State.

For the purpose of VAT exempting the goods the VAT payer is obliged to file with the Customs Authorities any proof of the intended dispatch of the goods to another EU Member State (e.g. contracts, purchase orders etc.) already when the goods are released into the free circulation. If he does not do so, the VAT liability arises to him.

Related parties

The VAT Act amendment extends responsibility of VAT group members in all cases to the termination of their membership. The amendment therefore covers also the situation when the membership terminates due to a death of a VAT group member.

We are currently preparing training on the VAT Act amendment. We will inform you about further details on time.