



Development of legislative and administrative measures to combat VAT evasion

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Development of conventional measures in the VAT Act from 2006

2006	• Reverse Charge Mechanism (Section 92a – 92i VAT Act)
2011	• Liability of recipient of taxable supply (Section 109 VAT Act) • Possibility to pay VAT directly to the bank account of supplier's tax administrator (Section 109a VAT Act)
2012	• Securing tax (Section 103 VAT Act)
2013	• Unreliable VAT payer (Section 106a VAT Act)
2016	• Control statements (electronic records of domestic sales and purchases) (Section 101c – 101k VAT Act)
2017	• Unreliable person (Section 106aa VAT Act)

2

Other conventional measures

- VAT Tax period – calendar month, calendar quarter – from 2013
- Amendment of the Fuel Act (311/2006 Coll.) – registered distributors and the provision of deposit – 1.10.2013
- Electronic form of submission (Section 101a VAT Act) – obligation for all VAT payers from 2016
- Cooperation with other Member States (Regulation 904/2010)
- Cooperation with businesses and associations at the given market
- Electronic evidence of sales since 2016
 - related to Income tax but contain data for audit VAT
- Upgrade of risk analysis in the area of VAT

3

Liability of recipient of taxable supply

- From 1st April 2011
 - Section 109 VAT Act within the meaning of Article 205 VAT Directive 2006/112/EC („VAT Directive“)
- Recipient of taxable transaction is being held jointly and severally liable for payment of VAT
 - In case of:
 - knew or should have known, and could that
 - the tax will not be paid intentionally,
 - the payer intentionally gets into a position where it will not be able to pay, or
 - will be a loss of tax or tax benefits elicitation.
 - amount of consideration is different from the open market value -> complemented from 2012,
 - he paid the consideration to and account held with a payment services provider abroad -> complemented from 2013,
 - he paid the consideration to and account other than the account of the supplier which has been publicly identified by the tax administration -> complemented from 2013,
 - supplier is unreliable payer -> complemented from 2013,
 - supplier of fuels is not registered as distributor of fuels by law -> complemented from 2013,
 - he paid by bank transfer to an account which is not published by tax administration – more than 540 000 CZK -> complemented from 2014,
 - he paid, either fully or partially, in a virtual currency under the legal regulation regulating certain measures against money laundering and terrorist financing -> complemented from 2017.
 - + Liability of the authorized recipient (registered consignee according to Section 108a VAT Act) -> complemented from 2013,

4



Special method for Securing the Tax

- From 1st April 2011
- Recipient (VAT-payer) has possibility to avoid the liability to unpaid VAT – use of the „Special security of VAT (institution in our VAT Act).
 - it is possible to use only in case (in advance) that a recipient has not been summoned as „liable to unpaid VAT“.
- It means:
 - Recipient pays VAT from a transaction directly to the Tax Office of supplier.
 - Supplier gets only „nett amount“ (without VAT).

5



Securing tax – Section 103 VAT Act

- In force since 1st January 2012
- In the case of threat of late VAT payment securing order is considered to be in force since its issue by tax administrator. Tax administrator has the obligation to “make an attempt” to announce the issue of securing order in appropriate way.
- Effective measure, preventive effect in general.
 - Disadvantages: quick adaptation of fraudsters to this measure, real amount of VAT loss could be higher than in fact secured VAT.

6



Unreliable VAT payer (1)

- Since 1st January 2013
- Serious breaches of the tax obligations in relation to the tax administration
 - The subject may appeal within 15 days of receipt of the decision
 - The unreliable payer is at least 1 year
 - Taxable period (for submission of VAT returns) is a month
 - Information whether VAT payer is unreliable or not is published on our websites (VAT registry)
- Institute of unreliable payer is bound to the concept of liability of the recipient of taxable transactions
 - The recipient is liable for unpaid tax if it is published on the internet that the supplier is unreliable payer

7



Unreliable VAT payer (2)

Rules set for this institute (in a simplified way, originally):

- additional tax assessment amounting at least 500 000 CZK,
- securing order issued by tax administrator and stayed unpaid,
- the cumulative VAT arrears amounting at least 10 mil. CZK without accessories at least 3 months,
- reducing the tax deduction minimally by 500 000 CZK, related additional assessment of the tax is not fully paid.

New rules since 1st October 2014:

- cumulative VAT arrears amounting at least 500 000 CZK,
- if the tax is assessed according to special instruments at least twice during 6 consecutive taxable periods,
- VAT payer does not cooperate, does not provide necessary communication/reaction,
- VAT payer did not submit VAT return or other statement at least twice during 12 consecutive months administration.

New rule since 1st January 2015:

- VAT payer did not provide accurate and truthful information in the registration form (mainly place of business).

New rule since 1st January 2018:

- increased the output tax minimally by 500 000 CZK, related additional assessment of the tax is not fully paid.

8

Unreliable person

- Since 1st July 2017
- The aim of this new institute is to ensure continued link to „VAT unreliability“ for persons who have seriously breaches their obligations relating to VAT and they are not VAT payers
 - e. g. repeated breaches of the obligation by identified person, issuing of fictitious tax documents, final sentence, the person did not provide accurate and truthful information in the registration form, cumulative VAT arrears, ...
- If an unreliable person becomes a payer, they shall also become an unreliable payer at the same time
- If the registration of an unreliable payer is cancelled, such a person shall become an unreliable person at the moment when they cease to be a payer

9

VAT Listings – Control Statement

- Since 1st January 2016
- VAT payer is obliged to submit Control Statement if
 - a taxable supply is carried out or payment is received,
 - a taxable supply is received or payment provided,
 - the special arrangement for investment gold
 - received mediation service (was applied tax)
 - supply of gold made exempted (is entitled to tax deduction), or
 - gold produced or transformed.
- Must be submitted within 25 days after the end of the calendar month or by the deadline for filling a tax return (individuals) with possible repairs within 5 working days
- Identification of potential misuse of tax evasion in the VAT system with the aim of defining and search chain transactions with the aim of pumping out financial resources from the state budget

10

Reverse Charge Mechanism (1)

- The Czech Republic consider reverse charge mechanism as very effective measure to combat VAT evasion in the long term
- Almost all options in the area of reverse charge provided by the VAT Directive have been exhausted at national level
- The Czech Republic, the Republic of Austria, the Republic of Bulgaria and the Slovak Republic requested in 2015 for the authorization of the derogation to apply RCH for any taxable supply where the overall amount exceeds EUR 10.000
- The request was rejected on 28 October 2015



11

Reverse Charge Mechanism (2)

Article of VAT Directive	Goods/Services (briefly)	Date of introduction in CZ	Termination
198	Gold of high purity, investment gold	1.1.2006	
199,1,d)	Used material, scrap and waste	1.4.2011	
199a, 1, a)	Emission allowances	1.1.2012	31.12.2018
199, 1, a)	Construction work	1.1.2012	
199a, 1, i)	Cereal and industrial crop (tax base > 100 000 CZK, approx. 3700 EUR)	mostly 1.4.2015 (some 1.7.2015 or 1.9.2015)	31.12.2018
199a, 1, j)	Metals (tax base > 100 000 CZK)	1.4.2015	31.12.2018
199a, 1, c)	Mobile phones (tax base > 100 000 CZK)	1.4.2015	31.12.2018
199a, 1, d)	Integrated circuits and microprocessors (tax base > 100 000 CZK)	1.4.2015	31.12.2018
199a, 1, h)	Laptops (tax base > 100 000 CZK)	1.4.2015	31.12.2018
199a, 1, h)	Tablets (tax base > 100 000 CZK)	1.4.2015	31.12.2018
199a, 1, h)	Games of consoles (tax base > 100 000 CZK)	1.4.2015	31.12.2018
199, 1, c)	Immovable property	1.1.2016	

12

Reverse Charge Mechanism (3)



Article of VAT Directive	Goods/Services (briefly)	Date of introduction in CZ	Termination
199a, 1, e)	Gas and electricity	1.2.2016	31.12.2018
199a, 1, f)	Electricity certificates	1.2.2016	31.12.2018
199a, 1, g)	Telecommunication services	1.10.2016	31.12.2018
199, 1, b)	Supply of staff in construction	1.7.2017	
199, 1, e)	Supply of goods provided as security by one taxable person to another in execution of that security	1.7.2017	
199, 1, f)	Goods following the cession of a reservation of ownership to an assignee and the exercising of this right by the assignee	1.7.2017	
199, 1, g)	Immovable property sold by a judgment debtor in a compulsory sale procedure	1.7.2017	
198	Investment gold (services)	1.7.2017	

13



Thank you for your attention!



14