



## **News No. 1/2012**

### **Law amendments as from 1<sup>st</sup> January 2012**

In the last issue of news 2011, we summarized the main changes introduced by amendments published in the Collection of Laws shortly before the end of the year. In this issue, we will come back to the Value Added Tax Act and describe further changes resulting from last year's amendments.

#### **Method of pro rata calculation of VAT deduction**

In general, the pro rata VAT deduction applies to situations where the VAT payer uses the received taxable supply both for the purpose of carrying out economic activities (business) and for purposes not related to business (for private use). If it is not possible to determine the pro rata coefficient according to the actual ratio of the use of taxable supply "for business purposes" to "private use", this ratio shall be determined by informed guess.

Since 1<sup>st</sup> January 2012 the provision on the so-called VAT deduction correction after the end of the calendar year shall apply. In the calendar year in which the tax payer was entitled to and did claim VAT deduction after the taxable event took place, the tax payer shall take account of the actual extent of the use of this taxable supply for his business activities in the respective year when determining the pro rata coefficient. Now, such a correction shall be performed for the last tax period of the year in which the deduction was claimed, not in the year in which the taxable event took place.

#### **Tax deduction equalization**

The equalization of tax deduction applies in cases where the tax payer has claimed so-called reduced VAT deduction. These are situations where the tax payer uses the taxable supply both for his business activities for which he claims output VAT and for business activities for which he claims tax exemption.

The amendment of the VAT Act stipulates that now the original deduction claimed for business assets before their use shall be subject to equalization.



Now the following cases where the tax payer claimed the original tax deduction

a) in full and subsequently used this property for purposes for which he has the right to claim reduced deduction or has no right to claim deduction at all, or

b) in a reduced amount and subsequently used this property for purposes for which he has no right to claim tax deduction or for purposes for which he has the right to claim tax deduction in full

shall be deemed to be use for other purposes.

This provision of the VAT Act amendment refers to situation of “changes of use” of business assets over time, where the tax payer used such a method when claiming the original deduction which proved, considering all new facts, to be inaccurate (but not primarily incorrect).

### **Adjustment of VAT deduction**

These provisions of the amendment generally refer to VAT deduction adjustments in the case of acquisition of fixed assets where the extent of use of such assets for purposes giving rise to a claim for VAT deduction changes in the following years. The period for deduction adjustment in the case of construction, residential and non-residential premises and technical improvements as well as in the case of land shall be ten years.

The VAT Act amendment now regulates the adjustment of tax deduction in case the assets are sold within the period in which the tax deduction shall be adjusted. In such a case, VAT deduction adjustments shall not be carried out in each year within the given period but such adjustment shall be carried out only once for all the years remaining till the end of the period over which the tax deduction adjustment shall take place.

As for the sale of assets for which the VAT payer was originally entitled to claim pro rata deduction, the entire sale price shall be subject to tax when selling these assets i.e. also the part of the price of these assets originally designated for purposes not related to business activities.



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## Liability for tax

The liability for outstanding VAT shall now apply to the recipient of taxable supply also in the case that

- the price for this supply is apparently different from the usual price without any economic justification, or
- the payment is made fully or partially by bank transfer to an account kept by the provider of payment services outside of the Czech Republic (foreign bank account).

If one of the above described situations occurs, the liability for tax arises automatically.

## Other changes

If a tax document does not contain all requirements in order to prove the claim for deduction, the claim may be proven in another appropriate way. Since 1<sup>st</sup> January 2012 this option applies even in the case where data such as VAT Identification Number or data decisive for tax calculation are missing. For instance, the missing VAT Id. No. may be replaced by a copy of the entry in the VAT payer register or the ARES system; the missing details of VAT rate may be completed directly by the payer the supply was provided for.

Furthermore, the requirements of corrective tax documents have been specified by the amendment. If the registration numbers of the original tax documents are missing in the corrective tax document, such specification of those (original) supplies must be contained in the corrective tax document to be able to clearly identify the connection between the original and corrected supply.

The amendment now stipulates specialties of securing the payment of tax not yet due or has not yet been determined.

If there is a danger in delay, the so-called securing order issued by a tax administrator shall become effective and enforceable at the moment of its issue. Simultaneously, the tax administrator makes an attempt to notify the person liable to tax of the issue of the securing order in an appropriate manner.

Warning: All of the above mentioned is of a general indicative nature only and is not comprehensive. The purpose is only to draw attention to the most important points of the amendments and changes. No damage claims for steps made based on the information shall be accepted. If you use information included in this document, you will only do it at your own risk and responsibility.  
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