



Amendment to the Act on Value Added Tax effective as of January 1, 2010

Amendment to Act 235/2004 Coll., on value added tax, as amended (the "ZDPH") to become effective as of January 1, 2010, besides other points, aims to implement EU directives into Czech legal regulations. At the time this report was prepared, the wording of the act approved by the Parliament of the Czech Republic was being submitted to the President for execution, and it is expected to be incorporated into the Collection of Laws by the end of the year 2009.

This report focuses on key changes introduced by the amendment.

Place of taxable performance for service provision

The most significant change is an amendment to the rules applicable to the determination of the place of taxable performance for service provision. The basic rule is stipulated in Section 9 of ZDPH. Exemptions from the basic rule are specified in other provisions of ZDPH.

The basic rule stipulates that if a service is provided to a taxable person (business-to-business principle), then the place of taxable performance is the seat or place of business of the service receiver (Section 9(1) of ZDPH). If a service is provided to a non-taxable person (business-to-customer principle), the place of taxable performance remains the seat or place of business of the service provider (Section 9(2) of ZDPH).

Exemptions from the basic rule concern services related to real-estate, cultural and sports activities, transport of passengers and goods, etc.

Other changes

A transfer of business shares in corporations and membership in cooperatives are considered to be financial operations. Any business operations related thereto are newly deemed exempted performance with no right for deduction.



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The amendment also changes the procedure for tax refunds to entities registered in other EU Member States. Applications are to be submitted via the electronic platform of the tax administrator of the payer applying for such refund. Furthermore, the deadline for applying for a tax refund is extended to September 30 of the calendar year following the period for the tax refund. Thereafter, the tax administrator gets in touch with the competent authorities of the other EU Member States and cooperation with them ensures that the tax is refunded. Instructions on how to proceed with applying for a tax refund paid in another EU Member States should be published by the Ministry of Finance of the Czech Republic in the next few days.

The amendment introduces new provisions concerning the price commonly used as the tax base for special cases. The provisions will be applicable especially to relations between related parties who will also be defined in ZDPH.

Summary Report

The payer will be required to submit a summary report, if any of the following occurs:

delivery of goods to another EU Member State to an entity registered in another EU Member State;

transfer of business property to another EU Member State;

delivery of goods in a three-party transaction under agreed conditions, or

rendering of a service with the place of performance as per the basic rule in another EU Member State, provided the service receiver is obliged to report and pay the tax.

It will be possible to submit the summary report in an electronic format of ".xml" only, via a data box or with a recognized electronic signature attached.

If the payer only renders services with the place of performance in another EU Member State, then the summary report is submitted together with a tax return by the deadline for tax returns. If the payer delivers goods or transfers business property, it is required to submit the summary report once a month.

If the payer submits the summary report once every three months and no transaction occurs which would give rise to the obligation to submit a summary report backdate for every month of the calendar quarter when it first became obliged to submit a monthly summary report, then the payer continues submitting summary reports until the end of a given calendar year. The following table should clarify this issue:



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04/2010	05/2010	06/2010	Obligation
delivery of goods			to submit the summary report for 04/2010 by May 25, 2010, and continue submitting monthly summary reports until the end of 2010
	delivery of goods		to submit the summary report for 04/2010 and 05/2010 by June 25, 2010, and continue submitting monthly summary reports until the end of 2010
		delivery of goods	to submit the summary report for 04/2010, 05/2010 and 06/2010 and 05/2010 by July 25, 2010, and continue submitting monthly summary reports until the end of 2010

Additional note to News 6/2009

Since we are receiving many questions about how to proceed with accounting for advance payments made in 2009 after the change of VAT rate as of January 1, 2010, we would like to clarify some issues that can also be found in the temporary provisions of ZDPH. If an advance payment was made towards performance to take place in 2010 and if such advance payment was received in 2009, the receiver of such payment is obliged to issue a tax document as of the date the payment was received with the VAT rate currently applicable. When accounting for advance payments in 2010, the VAT rate applicable in 2009 is used only in relation to such advance payment. The Ministry of Finance interprets the accounting for advance payments as follows: if an overpayment occurs, then the payer accounts for it at the rate valid in 2009; if an underpayment occurs, then the payer uses the new tax rate valid in 2010 for the remaining amount.

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