

NEWSLETTER I / 2016



New reporting obligatory for Czech VAT payers from 2016

Taxable persons registered for VAT will be obliged to submit so-called "VAT Control Statement ("VAT CS") from January 2016. A new duty is based on data submission relating to particular tax documents, which are already required to be recorded in the tax evidence by the VAT Act. This data will be reported in the VAT CS based on issued and received tax documents.

VAT CS has been introduced as a tool to prevent tax evasion and fraud. Its main purpose is to provide Tax Authorities with information on certain transactions carried out by taxable persons and identify suspicious groups (chains, carousels), which may be illegally withdrawing funds from a state budget. Only taxable persons registered for VAT in the Czech Republic, i.e. with CZ VAT ID number, will have the obligation to submit the VAT CS.

Transactions which shall be declared in the VAT CS:

- Local taxable supplies or receipt of local advance payments
- Local acquisition of goods/services or making of advance payments
- Local reverse-charge supplies
- Sales and purchase of investment gold in the special regime

If none of the above mentioned transactions are made in the period, VAT CS does not need to be submitted. The obligation to submit a VAT return is not affected.

The need to submit a VAT Control Statement does not replace the need to submit VAT returns or Recapitulative Statements for Intra-community supplies. A special declaration of transactions in a local reverse-charge regime will also be a part of the VAT CS.

Both individuals or legal entities or entities within a group registration have to submit the VAT CS no later than the 25th day after the end of each month/quarter. The VAT Control Statement has to be submitted only electronically. Sanctions for non-compliance with the VAT CS rules are severe. If a taxable person does not submit a VAT CS within the due date, the following penalties will be applied:

- a) 1.000 CZK (37 EUR), if VAT CS is submitted after the due date without an appeal from Tax Authorities,
- b) 10.000 CZK (370 EUR), if VAT CS is submitted within 5 calendar days after an appeal issued by Tax Authorities,
- c) 30.000 CZK (1.100 EUR), if corrective VAT CS is not submitted although an appeal to submit a corrective VAT CS was issued by Tax Authorities,
- d) 50.000 CZK (1.850 EUR), if VAT CS is not submitted after an appeal of Tax Authorities.

Furthermore, if a taxable person seriously violates or obstructs the administration of VAT by not submitting VAT CS, the tax administrator can impose a sanction up to 500.000 CZK (18.500 EUR).

Latvia - Reverse VAT regime

Amendments to the VAT Act introduces a reverse value added tax regime for mobile phones, laptops, tablets (including handhelds) and integrated circuit devices.

Reverse VAT regime for mobile phones, laptops, tablets (including handhelds) and integrated circuit de-vices is implemented in accordance with Article 199a, paragraph 1, "c", "d" and "h" stated that Member States until 31 December 2018 are allowed to introduce a VAT reverse charge procedure for the goods concerned.

Amendments to the law were developed on the basis of the non-governmental sector proposals. According to the information provided there is a risk of VAT fraud, which would be eliminated by introducing a special value added tax regime.

Amendments states that the reverse-charge VAT regime is applicable to the following supplies:

- Mobile phones;
- Tablets and laptops;
- Integrated circuit devices (including micro processors and central processing units).



As a result the customer is responsible for VAT calculation and payment. The supplier does not apply VAT to their invoice and the customer shall pay for the goods purchased out without VAT.

NEWSLETTER I / 2016

Greece - VAT rate subsidies

As of 1 October, a first round of six Greek Island are set to lose their VAT rate subsidies as part of the third creditor bailout package. The holiday islands are: Mykonos, Naxos, Paros, Rhodes, Santorini and Skiathos. The ending of the tax subsidy will hit the cost of hotel and villa accommodation, and the prices at cafes and restaurants.

The holiday islands' Greek VAT rates moved to the national level of 6%, 13% and 23% for the two reduced rates and standard rate, respectively. The previous, subsidized rates were: 5%; 9%; and 16%.



There was significant campaigning against the rise, with concern that it would damage the key Greek tourism industry. But Greece's creditors (the European Central Bank, European Commission and International Monetary Fund) made it a condition of the latest bailout. Given that the Greek tourism industry has stood up well to the recent crisis, the government had little argument against withdrawing the subsidy at the creditors' request. However, it may put a question mark over similar subsidies in countries like Ireland.

Greece's government, overruled minority parties on the matter, promising a review of the measure in 2016 and a potential reversal if tax revenues were ahead of targets. Greece was forced to raise many reduced VAT rates in August 2015.

Other islands will lose their VAT rate reductions in June 2016 and 2017.

VAT changes in Romania as of 2016: decrease of standard VAT rate and other amendments

Based on the provisions of the new Fiscal Code of Romania valid as of January 2016, new changes on VAT are coming into effect as of 1 January of the following year. Very briefly, they refer to:

- The standard VAT rate will be cut from 24% to 20% on 1 January 2016; there will be a further 1% cut to 19% in 2017;
- The widening of the domestic reverse charge mechanism to construction, precious metals, computer chips, gaming consoles, laptops, computer tablets, mobile phones and precious metals, subject to certain limitations;
- Printed books, magazines and newspapers will be subject to the 5% rate;
- Entrances fees to sporting, cultural events, cinema and theatres will be subject to the 5% VAT rate instead of 9%;

Even after the reduction from January 1 when it will go down to 20%, the general VAT rate in Romania still remains one of the highest at global level. With its current VAT rate of 24%, Romania is among the top ten countries with the highest VAT rates. At the opposite end, the 16% flat tax on corporate profits and individual income places Romania among the countries with the lowest level of taxation.



Also, Romania has the one of the highest deficits in VAT collection among the Central and Eastern European countries, as it failed to get 41% of the expected VAT revenue, according to a recent study of the European Commission. The VAT collection deficit is the difference between the expected VAT revenues and the VAT revenues which were actually collected.

Malta - VAT updates

Reduced VAT on Sports

Reduction in VAT to 7% on sports activities including gym memberships, fitness centres, football nurseries and other activities in a drive to promote sport and a healthy lifestyle.

Road Assistance Services

As from 17th July 2015, road assistance services rendered by service providers in the case of a breakdown or accident and which are offered on a subscription basis must, for VAT purposes, be considered as exempt supplies of insurance services. However if such services are provided on an ad hoc basis i.e. not as part of a membership/subscription package then the services would be subject to VAT at the standard rate of VAT.

NEWSLETTER I / 2016

Dutch EC Sales List threshold reduced

The Dutch tax administration is to cut the threshold for quarterly filings of EC Sales Lists (also referred to as recapitulative statements) as per 1 January 2016 from EUR 100,000 to EUR 50,000

The EU VAT Directive requires VAT registered businesses to complete monthly recapitulative statements detailing intra-Community supplies of goods or services to EU VAT registered businesses. EU member states may vary this to quarterly returns for businesses with such transactions under EUR 50,000 per annum.

Following a notification from the European Union that the Netherlands were in breach of Article 263 (1) of the EU VAT Directive (2006/112/EC), the European Commission has requested the Dutch tax administration Italian VAT refund-guarantee requirement-take effect on 1 January 2016.

Italian VAT refund-guarantee requirement

Non-resident businesses registered for VAT in Italy are now able to claim VAT refunds without the requirement to give a bank guarantee where the amount of VAT does not exceed €15,000.

Previously, a bank guarantee was required for all VAT refund claims, however this has now been removed on the basis that the business is assessed by the 'visto di conformita' (a declaration from a chartered certified accountant that the VAT return figures correspond with the VAT ledgers and VAT invoices).

This development will relieve the burden of getting bank guarantees for many businesses VAT registered in Italy.

Luxemburg - VAT review 2016 VAT update - 2015 & 2016

Luxembourg point of view

2015 was marked by significant trends with the increase of the VAT rates, the use of provisions relating to fines that were not previously imposed and the shifting e-commerce's rules. In addition, the VAT Authorities were driven by a change of mindset by improving the systems EWS (Early Warning System allowing improved monitoring of periodical returns) and ARG (Risk General Analysis based on annual returns). Clearly, the VAT Authorities are going into a direction of increasing their focus on cases identified as a risk.

Standard Audit File for Tax (SAF-T) practices is now a reality and exchange of information between Luxembourg Departments are on-going.



Major Luxembourg Trends

Among the main modifications, we would like to point out:

- Refund process which should lead to a reimbursement within 10 days with a maximum 4 months delay and interest for late payments in case of default from the VAT Authorities;
- New rights for VAT payers in case of claims against VAT assessments;
- Stricter application of legal fines for violations;
- Law of 25 July on the archiving (to be in line with digitalization era).

2016 will represent a continuity of 2015 with an improvement of systems and controls processes. eTVA platform will be replaced by eCDF. Such replacement will be effected in the following manner:

- as of 1 January 2016: periodical VAT returns and annual VAT returns for 2015 and 2016 could be done on eCDF platform or on the old eTVA-D system. Recapitulative statements should still be submitted through eTVA-D platform;
- as of 1st January 2017: periodical VAT returns and annual VAT returns from 2015 will only be performed through eCDF system. Recapitulative statements from 2017 will also to be done through eCDF platform.

It has to be noticed that XML structure used for eTVA-D's filling is not compliant with the XML structure for eCDF. Adjustments have to be monitored by the software developers.

NEWSLETTER I / 2016

New regulation about VAT taxation of legal persons under public law in Germany

On January 1st, 2016 paragraph 2b of the German VAT law was implemented. The regulation, which is part of the tax amendment law 2015, contains changes to the taxation of turn-over of legal persons under public law.

In future the selection of commercial operations for VAT won't figure, according to the paragraph 2b German VAT law. The new regulation leads for legal persons under public law to an extension of their business performed. Basically article 1 of paragraph 2b corresponds to paragraph 13 of the EU VAT directive.



Therefore functions undertaken by legal persons under public law, which take place in the exercise of public authority, so called assistance operations, won't be exercised in the cooperate meaning of German VAT law. Paragraph 2b German VAT law don't register turnover of legal persons based on private law and therefore under the same legal conditions as private economic operators. That's why this turnover will be outside the scope of VAT.

As part of the implementation of this regulation, a transitional system will be put in place, in which the previous legal position can be used until January 1st, 2017.

EU Case Law Implications

As a result of European Court case law that transactions performed by branches should not be included in the calculation of its mother company's VAT deduction right.

The Luxembourg VAT Authorities refer to the "operation related costs" notion and authorize the deduction of the VAT based on the direct link, i.e. on the costs in direct connection with the activities carried out by the branch.

The deduction of VAT related to overheads expenses remains a difficult exercise to implement and must be documented in the VAT returns.

By extension, costs incurred for the supply of internal services should not lead to a VAT deduction. Services rendered by a branch to its head office are not a "service" from a VAT point of view, so that the VAT linked to that transaction can not be deducted. However, if they are related to overhead expenses, a partial recovery could be argued based on a ratio.

Nonetheless, it should be noted that services between a non-European based company (a third country) and its branch are considered as independent services (and not internal as mentioned before). This has been confirmed in the Skandia ECJ's decision where the branch belongs to a VAT group in a EU country. The main implications are that services have to be declared under the reverse charge mechanism in the recipient country. However, this case law leaves in their wake uncertainties as to how the VAT deduction will be applied considering that no services are deemed to have been rendered between the members of the same group. It should be noted that some countries like Belgium and UK issued some guidelines on that implications.

An infringement action against Luxembourg has been brought by the European Commission in relation to the Luxembourg Independent Group of Persons' regime. No final conclusion has been given up to date. However, we believe that but we can underline that the Luxembourg should adapt its rules in the following areas:

- Threshold of taxable turnover, the actual one of 30% is not in line with EU rules;
- Deduction of the VAT by the VAT members; and
- No taxation of « contributions » made by members to a group without legal personality.

Role of the VAT Authorities in the Anti-Money Laundering and fight against terrorism

By the administrative circular 770 dated 1st August 2014, the Director of the VAT Authorities informed and confirmed that the VAT Authorities are competent to control the application of the anti-money laundering in connection with a number of categories VAT payers, such as, inter alia, Tax Advisors, Economic Advisors, suppliers of services to companies or Real Estate agents. The Chamber of Commerce of Marseille, in France, has organized a conference on April, 19 2016 with the focus on: « Internationalization strategy ».

This will include addressing : Issues on how a business trades abroad ? And in trading whether a business should use a commercial agent or trade via a liaison bureau or by signing a distribution contract with a local distributor? Specialist advice will be available from a number of companies. These include La Représentation Fiscale (France), Deny Cargo (Belgium), Studio Cassinis

France: Conference in the Chamber of Commerce in Marseille on April, 19

(Italy), La Boétie (Switzerland) and Tax Representation (Romania), all of whom are members of the alliance.

TRA, will be present at this event in order to consider and advise on the respective local rules for businesses who wish to undertake trade in these 5 countries. They will explore the different opportunities offered in those 5 countries to undertake business abroad.

In the second part of the conference, they will detail the advantages of tax representation from a VAT perspective.

This event is dedicated to all medium or small companies willing to develop its activity abroad. They will be able to question these VAT professionals which will help them in their internationalization strategy.



France : Threshold for distance sales was decreased

According to the French Finance Law Nr 2015-1785 dated on December, 29 2015 for the year 2016, its has been decided in its article 9 that the threshold to be VAT registered in France for distance sales was decreased. Since the 1st January 2016, this threshold is amounting to 35.000€. This is compared to the previous threshold which was 100 000€.

A ruling by the Polish Tax Authority from 3rd November 2015 states that a statement saying goods which are the subject of an Intra-Community supply of goods has already been delivered to the destination place (which is the territory of another member state) is not considered as a sufficient document confirming that goods have been delivered to the purchaser.

New Reverse Charge in UK for Electronic Communication Services

A new anti-fraud measure is set to be introduced that will have a profound effect on business that make whole-sale supplies in the UK of selected electronic communications services such as the exchange of calls and data over landlines, mobile networks and the internet.

Currently, the supplier of such services is liable to account for VAT on the supply made, however, under the new measure set to be introduced from the 1st February 2016, supplies that are covered by the scope of this legislation will create a reverse charge obligation.

As with other reverse charges, the customer will be liable to account for VAT in contrast with current legislation where the supplier is liable to pay the VAT that is due.

Those not affected by this proposed change will be businesses that make non-wholesale supplies or those that make such supplies that do not create an obligation to register for VAT in the UK.

Once this new change has been implemented, those who are affected may have to make changes within the business in terms of invoicing and VAT accounting.

NEWSLETTER I / 2016

Slovakia - VAT changes

The following Slovakian VAT changes have been enacted as part of the Slovak VAT Act 2016:

- The introduction of the domestic reverse charge for supplies in the construction industry.
- 10% on basic foodstuffs
- Increase in penalty's
- The introduction of the right to recover VAT on goods and services prior to VAT registration, in particular, situations.



Swiss member's new address

Our Swiss member La Boetie Sarl announced the following new address:

LA BOETIE Sarl
ICC Building
20, route de Pré-Bois
PO Box
1215 GENEVA
Switzerland

Poland: Intra-Community supply of goods: The shipper's statement is not eligible for 0% VAT rate



The Tax Authority was asked by the company, which is a VAT payer and registered for Intra-Community transactions whether the statement issued by a shipper could be treated as a document which permits the seller/supplier to apply 0% tax rate in case of Intra-Community transactions.

The Tax Authority answered that the statement received from the shipper cannot be considered as a document that clearly certifies that goods have been exported from one country's territory to the destination place in another member state because of the fact that the statement does not confirm receiving the goods. Admittedly, the shipper clarifies that the supplied goods were delivered to the destination address. However, this statement without any signature of the person who receives the goods or without a rubber stamp, only confirms the fact that goods have been transported by a shipper.

[Individual interpretation of the Director of the Tax Chamber in Lodz of 3 November 2015., Ref. IPTPP2 / 4512-448 / 15-4 / JSZ

Spanish member was interviewed

Tax Partners, the Spanish TRA member has just been interviewed by one of the most reverential and well known economic Newspapers in Spain, Cinco días.

The Spanish member has advised in the interview of its membership of Tax Representative Alliance (TRA) as a means to offer International support for those Spanish companies or entrepreneurs interested in expanding business to other Countries.

The Firm has also released a new website that shall soon be available in English.