

CZECH REPUBLIC

Name of the firm Ú•etní s.r.o.
Address T•ebohostická 12
Prague 10

Contact

Pavel Ku•e kure@ucetnispol.eu Tel. No. +420 274 822 502
Tax Partner www.ucetnispol.eu/en/

AT A GLANCE

Name of the tax	Value added tax
Local name	Da• z p•idané hodnoty (DPH)
Date introduced	1 May 2004
Date of membership in EU	1 May 2004
Administered by	Ministry of Finance (http://www.mfcr.cz/en/)
<u>VAT rates</u>	
Standard	21%
Reduced	10% and 15%
Other	Some supplies exempted
VAT Number format	CZ12345678
VAT return periods	Monthly, but VAT payer can become quarterly payer if its turnover is less than 10.000.000 CZK for a previous calendar year
Thresholds registration	€36.600 (CZK 1.000.000)
Recovery of VAT by non-established Businesses	Yes

HISTORY OF VAT

The Czech Republic (“CR”) became a member of the European Union as of the 1st May 2004 and consequently its VAT Law is based on the principles of the common system of VAT given by the EU VAT Directive (a recast of the Sixth Directive). In the Czech legislation VAT is governed by the Act no. 235/2004, Coll., on VAT, as subsequently amended. The general part of the VAT administration is ruled by the Tax Code, no. 209/2009 Coll..

SCOPE OF VAT

VAT is generally applied on a supply of goods or services with the place of supply in the CR carried on by a taxable person in the course of economic activities. The taxable supply usually represents goods or services rendered for a consideration. However, certain transactions carried out for no consideration represent also a taxable supply, e.g. private use of business assets or provision of gifts.

REGISTRATION

VAT registration is obligatory for a person who has a registered seat, place of business, or establishment in the CR, if its turnover exceeds CZK 1.000.000 (EUR 36.600) in twelve consecutive calendar months. Even if the threshold is not exceeded, the entity can choose a voluntary registration.

Entities that have no seat, place of business, or a fixed establishment in the CR are obliged to register for Czech VAT once they render a taxable supply in the CR on which they have to account for a VAT. There is no registration threshold and these entities may register voluntarily too. A tax representative may be appointed by a non-Czech entity, but tax liability is always related to the entity. Representation before Financial Authorities is permitted generally by the Tax Code (tax advisers, jurists, representatives acting on behalf of power of attorney).

VAT RATES

VAT is charged at three rates:

- The standard rate of 21% on the sale of goods and services
- The first reduced rate of 15% on the sale of certain goods such as food products, water supply, heat and cold and some services as public transport, tickets for sport and cultural events, health and social services
- The second reduced rate of 10% on the sale of some pharmaceuticals, contraception, nursing food, bakery products, printed books and periodicals

PLACE OF SUPPLY RULES

Supply of goods

The place of taxation is determined by where the goods are supplied. This not only depends on the nature of the goods supplied, but also on how the supply is made.

Generally in the case of a supply of goods:	The place of supply is:
(a) Without transport	where the goods are placed at the disposal of the person acquiring the goods
(b) With transport	where the goods are when the transport begins
(c) When transport begins outside the EU and ends in a Member state	the member State of importation
Exceptions to the rule:	
(1) Goods installed or assembled by or on behalf of the supplier	Where goods are installed or assembled
(2) Goods supplied on board ships, aircraft or trains during part of a transport of passengers effected in the EU	The point of departure of the transport of passengers
(3) Distance sales to individuals or non-taxable persons	Generally the member State where the transport ends however subject to not exceeding the annual threshold and as long as the transaction does not concerns excise goods or new means of transport, the place of supply would be the place where the transport begins. In the CR the annual threshold is 1.140.000 CZK (approx.. €42.500).
(4) Supply of gas, electricity and heat or cooling energy through gas, electricity, heating or cooling networks: (a) supply to a taxable dealer meaning that his principal activity is reselling gas, electricity, heat or cooling energy and his own	Where the taxable dealer is established/has a fixed establishment / in the absence of such,

<p>consumption of such goods is negligible</p> <p>(b) supplies not covered by (a)</p>	<p>the place where he has a permanent address or usually resides.</p> <p>Where the customer effectively uses and consumes the goods however should all or part of the supply not be consumed by the customer the place of supply of such goods is deemed to be where the customer is established/ has a fixed establishment / in the absence of such, the place where he has a permanent address or usually resides</p>
---	---

Place of supply of services:

On 1 January 2010, new rules were introduced to ensure that VAT on services will better accrue to the country of consumption. The place of taxation is determined by where the services are supplied. This depends not only on the nature of the service supplied but also on the status of the customer receiving the service. A distinction must be made between a taxable person acting as such (an entrepreneur) and a non-taxable person (e.g. a public body or a private individual who is the final consumer).

It is necessary to identify the exact nature of services and the status of the customer in order to assess the place of taxation for VAT purpose. The supply of services between businesses (B2B services) is in principle taxed at the customer's place of establishment, while services supplied to private individuals (B2C services) are in principle taxable at the supplier's place of establishment, subject to specific rules.

The table below set out the rules governing the place of services:

Generally:	The place of supply of the service is:
(1) Business to business (taxable persons) supplies	Where the customer is established
(i) If services are provided to fixed establishment of the customer located in a place other than that where his business is established	The place where the fixed establishment is located
(ii) In the absence of a fixed establishment	The place where the recipient has his permanent address / usually resides

(2) Business to customer (non-taxable persons) supplies	Where the supplier is established
(i) If services is provided from a fixed establishment of the supplier located in a place other than that where his business is established	The place where the fixed establishment is located
(ii) In the absence of a fixed establishment	The place where the supplier has his permanent address / usually resides
Exceptions:	
Intermediaries acting on behalf of a third party rendering a service to a non-taxable person	The place where the underlying transaction takes place
Services connected to immovable property	Where the property is located
Passenger transport	Where transport takes place in proportion to the distance covered
Transport of goods to non-taxable persons other than intra-Community transport of goods.	Where transport takes place in proportion to the distance covered
Intra-Community transport of goods to non-taxable persons	Where the transport of goods begins
Restaurant and catering services	Where the services are physically carried out
Admission to cultural, artistic, sporting, scientific, educational, entertainment or similar events	Where the events took place
Services and ancillary services, relating to cultural, artistic, sporting, scientific, educational, entertainment or similar activities supplied to a non-taxable person	Where those activities take place
Ancillary transport activities supplied to non-taxable services	Where the services are physically carried out
Valuations of and work on movable tangible property supplied to non-taxable persons	Where the services are physically carried out
Short-term (vessels <90 days; other <30 days) hiring of a means of transport	Where the means of transport has been placed at the disposal of the customer
Hiring, other than short-term hiring, of a means of transport to a non-taxable person	Where the customer is established, has his permanent address or usually resides
In the case of a pleasure boat	Where the pleasure boat is placed at the disposal of the customer, where this service is

	actually provided by the supplier from his place of business or a fixed establishment situated in that place
Supply of restaurant and catering services for consumption on board ships, aircraft or trains during the section of a passenger transport operation effected within the Community (ie. without a stopover outside the EU)	The point of departure of the transport operation. Return trips are treated as separate journeys.
Electronically supplied services, broadcasting and telecommunications services supplied to a non-taxable person	Where the person is established, resides or has his permanent address
Services supplied to non-taxable persons resident outside the EU:	Where the customer is established
Transfers / assignments of copyrights, patents, licences, trade marks	
Advertising services	
Services of consultants, engineers, consultancy firms, lawyers, accountants and similar services, data processing, provision of information	
Obligations to refrain from a business activity or a right	
Banking, financial, insurance, reinsurance excluding the hire of safes	
Supply of staff	
Hiring out of movable tangible property except for means of transport	
Provision of access to a natural gas system, or any network connected to such system, situated within the EU, or to an electricity system or to heating or cooling networks or transmission or distribution through these systems or networks and the provision of other directly linked services	

Place of intra-community acquisitions

	The place of acquisition is:
General rule for intra-community acquisitions	Where the goods are when the transport of the goods to the person acquiring them ends
If acquisition is made using a Czech VAT number (valid under VIES)	CR
If acquisition is made using a Czech VAT	The Member State where the transport of the

<p>number (valid under VIES) and the below conditions apply:</p> <ol style="list-style-type: none"> (1) The acquisition is made for a subsequent supply of such goods in that Member State; (2) The subsequent supply is made to a VAT-identified person in the Member State of destination; (3) The person to whom the subsequent supply is made is the person liable to settle the VAT on such supply; (4) The person registered in the CR reports the supply in the recapitulative statement 	<p>goods ends</p>
---	-------------------

Place of imports

When goods are imported, the place of such importation is the place where the goods are at the time of the chargeable event, i.e. the EU Member State in which the goods are released into free circulation.

TIME OF SUPPLY RULES

VAT must be charged at the time of the earlier of the following events:

- A taxable supply is carried out
- Payment for the supply is received

In case of goods a taxable supply is generally considered to be carried out on the date of supply (delivery) if the goods are delivered based on a purchase contract. Otherwise, the tax point is the date on which the goods are accepted by the customer.

For services the taxable supply is generally considered to be carried out on the date on which the service is performed or the date on which the tax document is issued, whichever date is earlier.

Other tax point rules may apply to specific supplies of goods and services.

The time of supply for imported goods is either the date of release of goods for free circulation (or another customs procedure that leads to a liability to pay VAT) or the date on which the

goods leave a duty suspension regime. Both output and input VAT is reported by the VAT payer within the same VAT return (reverse-charge).

VAT on intra-Community acquisitions of goods is charged at the earliest of the following dates:

- On the date of issuance of the tax document
- On the 15th day of the month following the month in which the supply took place

For reverse-charge services the tax point is the earliest of the following dates:

- The date on which the service is rendered (specific rules may apply to particular types of services)
- The date on which consideration is paid
- The last day of each calendar year if the service is being provided for more than 12 calendar months and if no consideration is paid during this period

EXEMPTIONS

The term “exempt supplies” refers to supplies of goods and services that are within the scope of VAT but are not taxed. Exempt supplies generally do not give rise to a right of deduction for related input VAT. These supplies are sometimes referred to as “exempt without credit.” Some supplies are classified as “exempt with credit” or “zero-rated,” which means that no VAT is chargeable, but the supplier may recover input tax related to the supply.

Exempt supplies of goods and services without credit:

- Basic postal services
- Television and radio broadcasting
- Insurance
- Financial services
- Transfer of real estate (after lapse of five years from issuance of first approval for use or from the first use; a tax payer may opt for taxation after this period)
- Education
- Betting and gambling
- Social welfare

Exempt supplies with credit (zero-rated) supplies of goods and services:

- Exports of goods
- Intra-Community supplies of goods
- International transportation of passengers and their luggage
- Transport and services directly related to the importation or exportation of goods
- Supplies of goods in a free zone or a free warehouse

RECOVERY OF INPUT VAT

Czech VAT Payers

VAT can be recovered by businesses registered for the Czech VAT on all goods and services used by them within the framework of their economic activities. However there are certain exceptions, when VAT is not deductible due to their character (restaurant and other private expenses, gifts with an acquisition cost exceeding CZK500) or because of their use for e.g. provision of exempt supplies without credit.

VAT payers prove their entitlement to VAT deduction with valid tax documents. Input VAT on local supplies made by another Czech VAT payer may not be deducted earlier than the tax period in which the recipient obtains a valid tax document. The deadline for VAT recovery is three years after the time of supply.

In case of capital goods input tax is deducted in the tax period in which the goods are acquired. However, the amount of input tax recovered for capital goods must be adjusted over time if the taxable person's use of capital goods changes during the adjustment period. For example, a taxable person that acquired an asset and recovered VAT in full at the time of its acquisition must adjust the amount of recovery if the asset is later used for a VAT-exempt activity. The capital goods adjustment applies to:

- Long-term tangible assets with a value higher than CZK40,000
- Long-term intangible assets with a value higher than CZK60,000
- Land
- Technical appreciation (substantial improvement) of fixed assets

The adjustment period is generally 5 years and 10 years for the real estate. In the tax period of acquisition, the input VAT is deducted depending on whether and to what extent the goods are used for taxable activities. A portion of the total input VAT must be adjusted according to the use of the goods (VAT-exempt, nonbusiness or taxable) in that particular year.

A three-year VAT adjustment period applies to business property that does not qualify as capital goods. The input VAT claimed must be adjusted if the actual use of the respective business property differs from the purposes reflected in the original input VAT claim.

Non-Czech VAT Payers

Also the entities with the seat in another EU member states can recover the Czech VAT but the specific conditions must be met. Also a criterion of reciprocity must be met.

A non-established VAT payer may request a refund of Czech VAT by filing an application through the electronic portal in its country of establishment. The application must be completed in the Czech language.

The minimum claim period is three calendar months, while the maximum claim period is one calendar year. Applications for a refund must be submitted within nine months after the end of the calendar year to which they relate, that is, by 30 September of the following year.

The minimum claim for a period of less than a year but not less than three months is EUR 400 (an equivalent in CZK). For an annual claim or for a remaining period of the year the minimum amount is EUR 50 (an equivalent in CZK). The tax authorities must decide on the VAT refund application within four months after the date on which the claim is submitted or within two months after the submission of the additional information that is requested by them.

Reciprocity applies to VAT refund to persons who are not established in the EU and do not have a fixed establishment in the EU. Currently, VAT refund is possible with Switzerland, Norway and Macedonia.

COMPLIANCE OBLIGATIONS

A Czech VAT payer must generally provide a tax document for all taxable supplies and VAT exempt supplies with credit made to another taxable person. The tax documents must be provided for rendering services, goods with installation and supplies of gas and electricity with a place of supply outside the CR. It must be also issued for every taxable transaction or tax-exempt transaction with a right of deduction involving a taxable person or a non-taxable person.

A tax document is necessary to support a claim for input tax deduction or a refund to a non-established business.

If a VAT payer is required to account for VAT on the private use of business assets, the VAT payer must issue “a document of use” similar to a VAT invoice. A taxable person is not required to issue a tax document for a supply that is VAT exempt without credit.

Effective from the 1st January 2013, the VAT law has been amended to permit electronic invoicing in line with EU Directive 2010/45/EU.

A Czech tax document may not be issued in a foreign currency only. If a foreign currency is used, for VAT purposes at least, the VAT amount must be converted into Czech crowns. For VAT purposes, the exchange rate used to convert foreign currency to Czech crowns is generally the exchange rate declared by the Czech National Bank or European Central Bank valid for the VAT payer on the date on which the VAT becomes chargeable.

Tax invoice must contain the following data:

- the name and address of the supplier
- the VAT identification number of the supplier
- the name and address of the recipient
- the VAT identification number of the recipient (if applicable)
- the sequential number of the invoice
- the extent and the scope of the transaction
- the date the invoice was issued

- the date on which transaction is performed (determined in accordance with VAT Act), or the date payment was received, whichever is earlier; if such date differs from the date of the issuance of the invoice
- the unit price without VAT and discount if it is not included in the unit price
- the taxable amount (VAT base)
- the VAT rate

Simplified invoices may be issued for supplies of goods and services involving cash payment or payment by cheque or payment card, or for services supplied by electronic means where the supply is conditional upon payment and the payment is made by bank transfer. Simplified tax invoices may be issued only for transactions carried out in the Czech Republic with a maximum VAT-inclusive value of CZK 10 000 (EUR 370). A simplified invoice may not be issued for the sale of goods subject to excise duty on alcohol and tobacco products at prices other than the fixed prices payable by the final consumer.

A simplified tax invoice must contain the following details:

- name, address and the tax identification number of the supplier;
- reference number of the tax invoice;
- subject and the scope of the transaction;
- date of the transaction;
- VAT rate;
- amount of the transaction including VAT.

All companies registered for VAT purposes in the CR are normally required to submit their VAT returns electronically via the application "Elektronicka podani pro financni spravu". This is also mandatory for supplementary tax returns, recapitulative statements, application for registration of VAT as well. However, taxpayers with a turnover for the immediately 12 consecutive calendar months not exceeding CZK 6,000,000 still have a choice of submitting their VAT return electronically or on paper and to deliver it by mail or in person.

VAT returns are generally submitted on a monthly basis. Under certain circumstances, VAT payer can opt for a quarterly period. However, quarterly period is not possible for VAT groups and taxable persons who exceeded the turnover of CZK 10,000,000 in the previous calendar year.

Czech VAT payers who supply or receive transactions which are subject to local reverse-charge (e.g. construction and assembly works, waste and scrap) must file specific recapitulative statements on a monthly basis.

As from January 1st, 2016, the "review statement" will have to be submitted, in which taxpayers would file with their tax returns and in which they would give detailed information on local taxable supplies received and provided, based on individual tax documents.

All of the above forms must be submitted by the 25th day of the following calendar month. Complete and detailed records must be kept for VAT purposes for 10 years after the end of a taxable period.

In case there is a default with paying the tax liability, for each day of such default, the interest shall be calculated based on the interest rate of the Czech National Bank increased by 14 percentage points. The interest is assessed in both cases – if the additional tax is assessed by the tax authority based on a tax audit or if the additional tax is assessed based on a voluntary disclosure. Current (June 2015) interest rate is 0.05 percent.

If the tax return is not filed or is filed with a delay and such delay is longer than 5 working days, the penalty for late declaration of tax is assessed as follows:

- 0,05 percent of VAT liability for each day of delay; up to 5 percent of VAT liability
- 0,05 percent of VAT credit for each day of delay, up to 5 percent of VAT credit

Maximum amount of the penalty of late declaration of tax is CZK 300,000.

SPECIAL CASES

(i) Special regimes are applicable for travel agents and traders with second hand goods, art works and collections. In such cases only a profit margin is subject to VAT, but input VAT recovery is not allowed both from local and EU supplies. Also, a VAT registered purchaser of the service or goods in question is not given a right on input VAT recovery.

(ii) Local taxable supplies of emission rights, gold, scraped materials and waste, construction and assembly works are subject to the reverse-charge mechanism.

Effective 1 April 2015, application of the reverse-charge mechanism will be extended, and will apply on local supplies of cereal and technical crops, metals (including defined precious metals), mobile phones, integrated circuits, notebooks, laptops and videogame consoles. Effective 1 September 2015, the local reverse-charge regime will apply for supplies of sugar beet. The reverse-charge regime will be applied if the total amount of tax base of the supply exceeds CZK 100,000 (approximately €3,600).

(iii) The place of a taxable supply of telecommunication services, radio and television broadcasting, and electronically supplied services to persons not liable to tax will be in determined to be the “seat” of the customer. Providers of these services that want to avoid registering for VAT in all EU Member States in which their customers are located may voluntarily register under the special administrative “mini one-stop shop” regime.

(iv) The VAT Act provides the option of VAT grouping. A VAT group generally consists of related entities with an address, a place of business or a branch in the Czech Republic. VAT grouping should simplify administrative procedures related to filing VAT returns within group companies and minimize non-recoverable VAT.

(v) In some cases customer’s liability for supplier’s unpaid VAT applies in situations specified by the VAT Act:

- consideration for the supply differs significantly from open-market value,

- consideration is made wholly or partly through bank (non-cash payments) to the account held outside the Czech Republic,
- consideration is made wholly or partly to the bank account not listed by the tax authority as supplier's bank account,
- taxable supply is purchased from a supplier who at the moment of supply was evidenced as non-reliable VAT payer by the tax authority,
- customer knew or should have known that the VAT stated on tax document will intentionally not be paid, the customer knew or should have known that there will be tax evasion from this supply.

When customer is in doubt, it is possible to apply a special VAT regime (payment of VAT directly to the supplier's tax administrator rather than to the supplier), if conditions are met.

RIGHTS OF THE TAX PAYER AND THE VAT AUTHORITIES

Tax administration is regulated by the law no. 280/2009 Coll., the Tax Code. VAT is administered by the locally competent Financial Authority except for the import of goods by persons not registered for VAT when VAT is administrated by the relevant Customs Authority.

Generally, the VAT may be assessed within three years after the deadline for regular tax return filing. In certain cases (e.g. filing of supplementary tax return), such assessment period may be prolonged by one year, maximally up to ten years. Tax liability arisen as result of criminal action may be assessed any time within two years after the year of the relevant penal court decision becoming effective.

There is no statutory tax audit cycle. Entities are picked by the tax authorities based on selected criteria (e.g. continuous input VAT claims) or randomly.

If the tax is assessed differently from the original VAT return, VAT payers are allowed to appeal to a governing body of the assessing Financial Authority, i.e. to the Financial Directorate. Its decision can confirm the assessment or change it either in favor or disfavor of the VAT payer. In the latter, the VAT payer may bring a lawsuit against the Financial Directorate decision with the Administration Court and continue with the case even up to appealing to the Constitutional Court if certain conditions are met.

EU DECLARATIONS

Intrastat Reports

The obligation to file Intrastat reports arises on exceeding the stated threshold for goods arrival (CZK 8M) or dispatches (CZK 8M).

The INTRASTAT report period is monthly and reports must be submitted to the competent customs authorities by the 10th working day of the month following the calendar month to which they relate if submitted in paper form, or by the 12th working day of the month following the calendar month to which they relate if submitted electronically. Submission in paper form is allowed in specific cases only.

If a Czech VAT payer makes intra-Community supplies of goods or provides services to a taxable person established in another EU Member State in any tax period, it must submit an EU Sales List to the Czech tax authorities together with the VAT payer's VAT return.

EU Sales List

Generally, the EU Sales List must be filed electronically each month; quarterly filings are possible in limited cases. It is not required for any period in which the taxable person has not made any intra-Community supplies or has not provided the services mentioned above.