

Dear clients

As we have already informed you, the VAT Act amendment came into force in April 2011. Due to the large interest our of clients, let us inform you about other practical impacts of selected legislative changes.

Practical impact of the VAT Act amendment

1) Changes in entitlement to a VAT input recovery

1.1. Change of the moment for entitlement to input VAT recovery

We would like to repeatedly notice that there is a condition of holding of a tax document regarding the “domestic” transactions (i.e. the transactions with the place of taxable supply in the Czech Republic). The new condition for entitlement to input VAT recovery is physical holding of the tax document when the entitlement to tax deduction is claimed by the taxpayer.

Our comment:

We recommend you to mark the documents received by a stamp with the date of their reception, eventually by the signature of person responsible for their reception in order to be able to prove the moment of documents' reception for all documents with domestic place of taxable supply.

There is a possibility of sending documents via email, even without so-called electronic signature. Nevertheless, in this case, the documents have to be printed by the customer. The customer is obliged to treat with these documents as paper documents received via the post.

1.2. Responsibility for correctness of the input VAT claim

In case that the amount of tax stated on the tax document exceeds the amount of tax which shall be stipulated in accordance with the VAT Act, the taxpayer could recover only the VAT amount corresponding to VAT Act. Contrariwise, in case that the amount of tax stated on the tax document is lower than the amount which is stipulated in accordance with the VAT Act, the taxpayer could recover only the VAT amount, which is stated on the tax document.

Example:

If the taxable supply is subject to the reduced VAT rate of 10 %, but the supplier stated the incorrect VAT rate 20 % on the tax document, the taxpayer could recover only the VAT amount corresponding to 10 % VAT rate, which is stipulated in accordance with the VAT Act. If the taxable supply is subject to a standard VAT 20 % according to VAT Act, but the supplier stated the incorrect VAT rate of 10 % on the tax document, the taxpayer could recover only the VAT amount, which is stated on the tax document.

Our comment:

We recommend you to ask the supplier to issue a corrective tax document in such cases.

2) Receivables to debtors in insolvency proceedings

The provider of taxable supply is allowed to claim back VAT, which has been paid for taxable supply, in case the debtor did not pay for this supply and is in insolvency. The specific conditions for correction of the amount of the VAT are stipulated by law.

Our comment:

In case that there are the unpaid receivables to a debtors in insolvency proceedings in your evidence, we will be pleased to assist you with the preparation of all administrative issues connecting with the VAT refund.

3) Changes in VAT input recoveries in case of assets' acquisition

In case of long-term assets' acquisition, which will not be solely used for economic activity, the taxpayer is obliged to reduce VAT input recovery by so-called partial coefficient at the moment of assets' acquisition. In case that the assets will be used for economic activity only, the VAT recovery is not reduced.

Example:

The taxpayer acquired on 1 June 2011 the car, which will be used for private purposes, in 40 % ratio (the ratio was provided by the taxpayer based on its estimation). In the period of June 2011 the taxpayer will not claim the VAT deduction in the full extent, but he will claim the 60 % recovery. At the end of year, the taxpayer will be obliged to recalculate the right to VAT deduction according to real usage of the car for his economic activity. If the difference between the original estimation and real usage of the car is higher than 10 % (it does not matter if higher or lower), the taxpayer is obliged (or entitled) to reflect this difference into his VAT return for December (respectively for 4rd quarter) 2011 and to correct the amount of VAT which was initially claimed.

Our comment:

In case you will acquire the long-term assets after 1 April 2011, which will not be used for the economic activity only, please, take this change into account. In case you need more information, do not hesitate to contact us.

4) Changes relating to the moment of correction of the tax base and amount of tax

The VAT amendment tightens the period, for which the recipient of the taxable supply is obliged to reduce the original right to deduction of VAT in case of correction of the tax base and amount of tax. This period depends no longer on the moment of the receipt of the corrective tax document, but depends on the ascertainment of the facts leading to the obligation to correct the tax base.

Example:

Payer A delivers the goods to payer B in the Czech Republic (i.e. domestic taxable supply). Payer B accepts the goods on 29 April 2011. Afterwards, because of its poor quality, payer B returns the goods and requires the refund of payment. Payer A accepts the claim on 20 June 2011, he writes the protocol and delivers the protocol to payer B. Consequently, he issues the corrective tax document, which is delivered to payer B on 8 July 2011. Both payers have monthly taxable periods.

Payer A after the claim: He is allowed to reduce its tax base and output tax for the period of July 2011, i.e. for the period in which payer B received the corrective tax document.

Payer B after the claim: He is obliged to correct the tax deduction in the VAT return for the period of June 2011, i.e. for the period, in which he learn about the circumstances relevant for correction based on the claim protocol.

5) Tax credit and debit notes

The documents originally called tax credit notes and tax debit notes will be called as corrective tax documents.

The taxpayer is obliged to issue the corrective tax document within fifteen days of ascertainment of the facts leading to the obligation to correct the tax base.

Our comment:

We will be pleased to check the corrective documents' mandatory obligations according to the amendment to VAT Act.

6) Special way to secure the tax

Effective from April 2011, the recipient of the taxable supply is allowed to pay the amount of VAT from received taxable supply stated on the tax document directly to the Financial Authority instead of disbursing tax to its business partner (the provider of taxable supply). In case that the recipient decides to use this method, he is obliged to announce the following information to the Financial Authority:

- Identification of recipient and provider of the taxable supply;
- Tax on which the payment is made;
- Date of realization of taxable supply or the date when the refund for taxable supply was covered.

Our comment:

In case that your business partner doesn't pay the whole amount of taxable supply and declares that he uses the special way to secure tax, do not hesitate to contact us. We will be pleased to verify with the Financial Authority if the outstanding amount of receivable was covered. Otherwise, there is a risk of interest on arrears in case you do not pay the amount of the VAT liability in the relevant deadline in the whole amount, i.e. without reduction by the amount of VAT, which should have been directly paid to the Financial Authority by your customer.

7) "Domestic reverse charge"

The VAT amendment extends the range of situations in which the domestic mode of reverse charge can be used. In practice, in case of selected taxable supplies, the VAT is not paid by suppliers but by customers in case they are VAT taxpayers. In case of taxable supplies to customers – non-taxpayers, the output tax will be claimed by customer as before. This mode can be used in case of waste's sale (cardboard, pasteboard, scrap, plastics, rags etc.) as well.

Our comment:

In case that your company is in charge of business with waste, please verify in Annex 5 to the VAT Act., whether the mode of reverse charge should be applied in your situation as well.