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## VAT

### The principle of determining the place of taxable supply of services

The Chamber of Deputies is currently discussing an amendment to the VAT Act, effective from 1 January 2010, which would impose new rules on cross-border supply of services, the so-called EU VAT package.

This amendment changes the general rule for the supply of cross-border services. The first question that needs to be answered is whether the recipient is a business or private entity. If consumer is a person liable to taxes, the place of taxable supply will be shifted to the state where is the establishment of the recipient or place of its business, i.e. into the state of real consumption. On the contrary, for the services provided to consumers not liable to tax, the general principle does not change and the place of taxable supply remains in the state of the service provider. This rule will be subject to a number of exceptions, some of them are stated below:

- Services related to real estate will remain taxed in the state of their actual placement.
- Place of taxable supply for services in the field of culture, arts, sports, science, education, entertainment and similar services, including services of the organizer will not change and will be in the state where the event takes place.
- A significant change occurs in the taxation of transport services. If goods transportation including ancillary services, is provided to

a company, the place of taxable supply will be in the state of consumer, regardless of whether it is transportation between member states or within the territory of the Czech Republic. On the other hand, if the transport services are provided to private entities, place of taxable supply will be in the state where the transportation began or the place where the relevant section of the transport takes place.

- In the case of electronic services provided by a foreign entity liable to tax (i.e. entity that does not have residency within the European Community, nor the place of business or place of stay) to ordinary consumer who resides in the Czech Republic, the place of taxable supply will always be in the Czech Republic.
- Another important novelty is still wider use of so-called „effective use and enjoyment rule”. If according to a general rule, the place of taxable supply of services to a taxable person is established in a third country, but the real use or consumption of the service is in the domestic country, the place of taxable supply will be shifted to this country.

As stated by Lucia Rábllová from the Tax department of Baker Tilly Czech Republic: "The present situation, when certain types of services are taxed by some Member States according to special rules, while others have applied the general rule, is somewhat



confusing. The new general principle will not only resolves disputes about the right to charge VAT between the Member States, but also minimizes the risk of double taxation that companies face when providing cross-border services."

## Income tax

### Extraordinary depreciation as an anti-crisis measure

According to the amended Income Tax Act which came into the force in June this year, entrepreneurs can apply extraordinary depreciation to new property acquired during the period from 1 January 2009 to 30 June 2010, and thus their investment will be quickly translated into the tax deductible expenses. As the Ministry of Finance clarifies, the date of putting the property into use is the date of its acquisition. In addition, extraordinary depreciation is taken as equivalent tool to the straight-line and accelerated depreciation.

In the case of the 1st depreciation group, the depreciation period is shortened from 24 months to 12 months and in case of 2nd depreciation group the depreciation period may be shortened from five to two years. A company can depreciate the asset without interruption up to 100% of the input price for 24 months, the first 12 months it can apply straight-line depreciation up to 60% of the input price of tangible asset and in further 12 months immediately following it can apply straight-line depreciation of the remaining 40% of the input price of the tangible asset.

Companies that acquire property through financial leasing between 20 July 2009 and 30 June 2010 may also apply the extraordinary depreciation tool. Therefore, the financial leasing becomes an attractive method of financing investment needs for companies that do not have possibility to take credits and loans.

In respect of this amendment, the Ministry of Finance together with the Chamber of Tax Advisers has clarified certain ambiguities, which originated in its application:

- Technical appreciation of the asset depreciated by the extraordinary depreciation does not increase the input price of the property, but is depreciated separately with the coefficient for the first depreciation year. If there is any change in input price other than the technical appreciation, then the standard procedure applies, i.e. recalculation of depreciation costs for the remaining period of depreciation.
- Reserves for the repairs of property in the 2nd depreciation group can be created even if the extraordinary depreciations will take only 24 months instead of the original five years or more.

## Tax administration

### Data boxes

An Act on Electronic Operations and Authorized Conversion of Documents by using data boxes came into the force on 1 July 2009. The official date for the launch of the boxes was 1 November 2009. Many state authorities, however, have been using their data boxes for sending and receiving data messages before this date.

All government authorities and legal persons registered in the Trade Register are obliged to have data box, as required by the law. Entrepreneurial and non-entrepreneurial individuals can activate their data boxes voluntarily. The operating principle of the box can be compared to the electronic banking. Over the user interface it is possible to log in with the login name and the password.

Through the personal settings user can specify the form of the notification when a new document is



delivered. This can be done by a text message on mobile phone or by an e-mail (both are equivalent to a shipment notice from the post office). In this case, the daily logging in and monitoring data box is not necessary.

**New document will be deemed delivered only when the beneficiary logs into a data box. This act has the same legal effect as the delivery. If the person does not log into the data box within ten days since delivery, the document is considered as received on the last day of this period.**

Among advantages of the electronic storage are certainly time saving and lower costs associated with the postal services. Operation of the data box may be also delegated to other persons, even for the documents with personal delivery.

On the contrary, a disadvantage is the fact that it is not possible to have active more than one data box which may be impractical especially for large companies that have multiple businesses or branches. Long term archiving is also not possible and 90 days after receiving the document the user has to convert documents into paper form or to connect to data box through information system with its own storage capacity.



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