

Dear clients and business partners,

In the holiday issue of Tax News, we are mostly going to present the latest news regarding topics of which we have already informed you. We will have a look at the latest development of electronic sales registration, we will present other aspects of the VAT control report and answer specific questions with respect to the domestic reverse charge regime. We will also inform you about a judgment of the Supreme Administrative Court introducing in the tax practice new information regarding submission of powers of attorney.

With best regards

LERIKA Team

E-SALES

E-sales. This is the newly approved name of electronic sales registration which has experienced some changes since we last mentioned it. Let's have a look at the current situation.

As we have informed you in our March news, the registration will include all revenues, or more precisely sales, except for those not subject to tax, those subject to withholding tax or those from other than business activities, revenue from dividends, shares in profit etc. Revenues will be registered online in the form of sending a data message to the financial administration server, followed by assignment of a unique code and printing out the code on a receipt.

On 10 July, the Act passed its first reading in the Chamber of Deputies. According to the expected legislative process, the Ministry of Finance has changed the estimated date on which the Act will take effect. The first group of taxable entities, operators of catering and accommodation services, should register its sales as of the first day of the fourth calendar month following the date of publishing the Sales Registration Act in the Collection of Laws. As of the first date of the seventh calendar month following the publication, retail and wholesale companies should join in. Small entrepreneurs active in other areas have not been considered yet, nevertheless, a decision to include other activities into the registration will be made on the basis of an analysis to be carried out in order to evaluate the first two groups of entrepreneurs. The obligation to register sales will apply to all entities in the said fields of business who are subject to the tax on incomes of natural or legal persons. Therefore, the VAT registration criterion will play no role in this respect.

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It is necessary to add that the Ministry of Finance has been communicating well with the public and making efforts so that the public has maximum information before implementation itself. This was an objective of a conference with representatives of the Croatian model which took place in June with the intention to map all possible effects of electronic registration. The public was invited to attend the conference and its recording as well as results are available on the website of the Ministry of Finance. From the fiscal point of view, the Croatian model is praised for its 70% increase of tax liabilities of natural persons in case of independent activities, more than 40% increase of chargeable events in relation to VAT and 48% increase of consumption tax collected at the national level. Other exemplary positive is the system's response time – less than 0.5 second in 98% of cases.

In this issue

- E-Sales
- Deadline for submission of a power of attorney
- VAT News
 - Control report – latest news
 - Domestic reverse charge regime – specific issues

Tax | Accounting | Payroll

Should you not wish to receive our Tax News, please contact Kateřina Navrátilová via e-mail: katerina.navratilova@lerika.eu or phone: +420 222 362 678.

For further information please contact the respective LERIKA's specialist.

STEM agency carried out a survey of the public's perception at the end of June and its results show that more than four fifths of respondents are aware of electronic registration and this awareness is the greater the higher the education achieved. Three fourths of respondents believe that the project will contribute to improved collection of taxes from traders and service providers; a smaller portion of respondents (66%) is of the opinion that introduction of e-sales will gradually contribute to improvement of customer confidence in traders and service providers. There are concerns particularly about the fact that the system will be somehow circumvented and about liquidation of small traders.

katerina.navratilova@lerika.eu

DEADLINE FOR SUBMISSION OF A POWER OF ATTORNEY

In May this year, the Supreme Administrative Court rendered a judgment settling a dispute between a taxable entity and tax administration bodies regarding the deadline for submission of a power of attorney to the relevant tax administrator where a tax return is prepared by a tax adviser and, therefore, the deadline for submission of the tax return is postponed.

Existing procedures of all entities active in the field of taxes have been governed by interpretation of the financial administration, according to which the last day for delivery of a power of attorney is identical with the day on which the deadline for submission of a regular tax return expires. In 2012, the deadline for submission of the return expired on 2 April. In the case concerned, dealt with by the Supreme Administrative Court, the taxable entity did send off the power of attorney for preparation of a tax return by a tax adviser on 2 April 2012, but it was received by the tax administrator only a day later, on 3 April 2012. Therefore, the tax administrator considered delivery of the power of attorney defective and assessed a penalty for late submission of the tax return, which took place on 2 July 2012, i.e. within a time limit for preparation by a tax adviser. In the original dispute before the Regional Court in Ostrava, the taxable entity's actions was dismissed as the Court did not support the taxable entity's opinion that it had been sufficient to send off the power of attorney through a postal service operator on the last day of the time limit.



The Supreme Administrative Court reviewed the case as a whole and introduced an interesting conclusion into the tax practice. The Supreme Administrative Court acknowledged that from the linguistic point of view, legislators had been often using the term “enforce” within the meaning of “file” while it was not an objective to express a necessity of receipt by the tax administrator. Thereby, Section 27(2) of the Tax Code is specified; it states that “a power of attorney shall take effect in relation to the tax administrator as of the moment of its enforcement with the tax administrator”. Therefore, it was admitted that the taxable entity was right when stating that the power of attorney took effect and the deadline was met as it had been sent off by mail on the last day.

katerina.navratilova@lerika.eu

VAT NEWS

CONTROL REPORT – LATEST NEWS

The last issue of Tax News dealt in detail with a rather general structure of control reports. In the current issue, we will focus on some other aspects made available at the website of the financial administration in the course of holidays.

- As concerns documents not specifying customer's tax ID number, the previous model version of the control report allowed for a simplification – those documents should be registered cumulatively in a single line of the report. In the current new version of the control report as issued by the General Financial Directorate, this simplification has been extended. In addition to the above, cumulative reporting will apply also to performances with a value not higher than CZK 10,000 regardless of whether the customer's tax ID number is specified or not. This modification will be certainly welcomed by all persons subject to preparation of control reports; nevertheless, by the end of 2015, it will be necessary to clarify some other details, e.g. actions to be taken when for a performance exceeding in the aggregate the limit value of CZK 10,000, two partial invoices will be issued not exceeding the limit individually. Similar situation may occur e.g. upon issue of a pro forma invoice and subsequent balance payment where those payments individually do not exceed the limit of CZK 10,000 but in the aggregate they do.
- In relation to invoices received, customers will be obliged to specify in control reports the date of the supplier's obligation to submit a tax return. In some places, this fact may cause troubles as the information on the date of chargeable event or acceptance of consideration is often not recorded in registration systems.
- Problems may also include e.g. recording a correct registration number of a received document. In order for the revenue authorities to be able to match up individual performances for control purposes, it will be necessary for document numbers to match at least at the level of alphanumeric symbols. However, there may be discrepancies in practice as some information systems record invoice identification numbers only in a numerical format while others record them in the full format (combination of numerals and letters).
- Introduction of the control report as of 1 January 2016 replaces the separate extract from records pursuant to Section 92a which the payers will certainly appreciate as the extract included an obligation to monitor selected types of performances in different units of measure.

There are still 4 months left till the end of 2015 but as we can see there are still some areas requiring more detailed specification by the General Financial Directorate. Still, we can already get a rough picture of what to expect in the next year.

petr.hajek@lerika.eu

DOMESTIC REVERSE CHARGE REGIME – SPECIFIC ISSUES

In the last issue of Tax News, we informed you about the news concerning the domestic reverse charge (R-CH) regime. General Financial Directorate's original report on the reverse charge regime application, published on 11 March 2015, was updated by an amendment regulating application of the R-CH regime with respect to cereals and industrial crops as of 1 July 2015. At its website, the financial administration published reaction of the General Financial Directorate in respect of these issues in some specific areas and we are going to present some of them.



- One of them could be a situation where more types of selected products are specified in a single tax document. How will the limit of CZK 100,000 for application of the R-CH regime be evaluated in this case? Under those circumstances, individual tax bases shall be added up and they shall be evaluated in the aggregate with respect to the limit above. However, it is necessary to point out that it must be selected goods with respect to all items. Let us use a simple example for explanation. Where the tax documents specifies delivery of phones worth CZK 70,000 and game consoles worth CZK 60,000 (in both cases, they are selected goods shown in the extract from records under a separate code), the one-hundred-thousand limit for application of the R-CH mechanism will be measured against the amount of CZK 130,000 (70,000 + 60,000). But if it was a delivery of selected goods and goods other than selected (e.g. cameras instead of game consoles), the limit of CZK 100,000 would be measured only against the amount of CZK 70,000; therefore, the limit would not be exceeded and the R-CH regime would not be applied.

- As concerns incidental expenses, according to the statement of the General Financial Directorate, those expenses included in the total price of the goods should be subject to the same regime as the delivered goods. In this situation, it is necessary to keep an eye on the limit of CZK 100,000 for application of the R-CH regime. There may be a situation where the price of the goods themselves is just below the limit but exceeds the limit if incidental expenses are added. In such a case, the R-CH regime shall be applied both to the goods and to the incidental expenses.
- Another disputable moment may occur e.g. in a situation where the goods are ordered by a single purchase order but they are delivered gradually and a separate tax document is issued for each delivery. In such a case, the limit is evaluated for each delivery separately.

petr.hajek@lerika.eu

Contacts:

Corporate taxation

Ivana Ottová
+420 277 277 085
ivana.ottova@lerika.eu

VAT and customs

Alena Kučerová
+420 277 277 084
alena.kucerova@lerika.eu

Personal taxation

Martin Pecka
+420 277 277 087
martin.pecka@lerika.eu

Accounting

Monika Borkovcová
+420 222 363 073
monika.borkovcova@lerika.eu

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