

Value added tax from the perspective of Czech and European law

Abstract

The Value Added Tax (hereinafter referred to as “VAT”) is a general consumption tax assessed on the value added to goods and services. Since it applies to almost all goods and services which are sold and bought in the EU, it can be considered the most important indirect tax. Historically, it was introduced in order to replace sales tax and avoid the cascade effect of it. VAT is the first harmonised tax in the EU. The basic framework for EU VAT was introduced in the Sixth Directive 77/388/EC which was subsequently replaced by its “recast” – Directive 2006/112/EC. All member states’ legislation must therefore comply with the provisions of the VAT Directive.

Although the name of my thesis is “Value Added Tax from the perspective of Czech and European law”, this area of law is so wide that it was necessary to focus on a specific topic. The main purpose of the thesis is to analyse the functioning of VAT in respect of intra Community acquisition of goods. Since VAT is the first harmonised tax in the EU and the European legislation is very important and influences the national legislation on VAT, I focused the thesis on intra Community trade. The original aim of the common VAT system was to apply the origin principle which means that the tax is levied in the member state the goods were produced in. Nevertheless, the necessary condition for the properly functioning common VAT system based on origin principle is that the VAT rates are also harmonised which has apparently not been possible so far. Therefore, destination principle was introduced on a temporary basis. It means the VAT is levied in the member state of consumption. This system ensures product neutrality because it does not discriminate between domestic and foreign goods. On the other hand, it requires the monitoring of the cross-border movement of goods and services as well as cooperation between member states’ tax authorities.

The thesis is composed of four main chapters. The first three chapters deals with main characteristics and functioning of VAT, while the main, fourth chapter deals with VAT concerning intra Community transactions.

Chapter one is introductory and explains the reason why VAT was introduced in the legislation of almost all countries in the world. It mentions the historical progression of this tax and indirect taxes in a whole.

Chapter two examines relevant Czech legislation on VAT. The chapter consists of six subchapters, each of them dealing with the main features of VAT. The aim of this chapter is to explain the functioning of VAT in general terms, before focusing on a specific area of intra Community transactions. Subchapters look at subjects of VAT, taxable persons as well as non-taxable persons, taxable transactions, taxable amount and rate, exemptions from VAT, i.e. transactions which are not taxable, deduction which according to ECJ is the main part of the functioning VAT system and also briefly tax authorities in the Czech Republic that are responsible for collecting VAT.

Chapter three is subdivided into two parts and provides an outline of the main relevant European legislation concerning VAT. Part one of the chapter presents reasons, tools and goals of the harmonisation process in the EU. Part two shifts the focus on the key piece of legislation, the Sixth directive which was the first harmonisation directive in the area of VAT. Subsequently, the new directive on VAT, called the “recast” of the Sixth directive is examined.

The most important chapter of the thesis is chapter four which concentrates on intra Community transactions and VAT. The chapter is divided into three main parts. Subchapter one deals with intra Community acquisition of goods. It explains the functioning of VAT from the point of view of the person who buys goods from other member state of the EU. The key principle is that the acquisition of goods is taxed in the member state of destination. The following subchapters deal with special types of goods which are subject to special rules because of their characteristics, for example gas and electricity. The second subchapter focuses on intra Community supply of goods. In fact it explains the functioning of VAT from the point of view of the other side of the transactions, the supplier. Generally, the supply of goods is exempted from VAT because, as mentioned before, the intra Community acquisition of goods is taxed in the member state of destination. Again, special schemes of taxation are examined in the following subchapters. The third subchapter describes trilateral transactions which are subject to a special scheme and compares them with so-called chain transactions.

The conclusion of the thesis follows the fourth chapter. The main aim of the thesis is to explain the common system of VAT and focuses on intra Community acquisition of goods. It also points out the influence of ECJ rulings for the application of the Directive by member states' tax authorities.

Klíčová slova diplomové práce / *Key words of the master thesis*

Daň z přidané hodnoty / *Value added tax*

Intrakomunitární obchod / *Intra-Community trade*

Pořízení zboží v rámci EU / *Intra-Community acquisition of goods*