Abstract

The dissertation is dedicated to application of value added tax to an international trade in goods while it focuses on so called intra-Community supplies between EU member states. It focuses also on the extent to which the transitional VAT system is applicable in terms of European single market. The aim of the dissertation was to map existing and possible future development of the VAT system in the area of the intra-Community supplies and its legal framework. The primarily task was to analyze relevant legislation (first Directive 2006/112/EC and Act No. 235/2004 Coll., about the value added tax, as amended) taking into account case law of Court of Justice of EU and national courts of individual EU member states, including the application of the results of analysis on specific selected transactions.

A fundamental question seems to be how to prove a fulfillment of conditions for application of the VAT exemption on delivering goods to another EU member state. The condition which appears to be most risky is that the supplier is obliged to prove that the goods left the national territory, especially in a situation where the actual transport is arranged by the customer and the supplier must largely rely on the information that he receives from the customer. The position of the supplier is complicated by the fact that the ways in which a compliance with this condition shall be documented varies in the individual Member States considerably. It is also to the supplier, if necessary, to be able to demonstrate that he has taken all measures to ensure that the conditions for exemption are fulfilled, respectively he is not involved tax fraud.

The other fundamental area which is the subject of the expert discussion, are chain transaction, i.e. the transaction with goods, involving three or more businesses, while the goods are shipped directly from the first participant to the last participant of the chain. The decisive role in the application of VAT on these chain transactions play by the decisions of the Court of Justice of the EU, and above all the decision in case C-245/04 EMAG Handel Eder OHG, and C-430/09 Euro Tyre Holding BV, since the Directive 2006/112/EC itself does not contain the instructions how to proceed in such cases (with the exception of the so-called simplified procedures for triangulation transactions). The substance of the solution is the principle of assignment of the transport only to one of the successive supplies of the goods that creates the chain transaction. The supply of the goods to which the transport is assigned, shall be for VAT purposes considered as the supply of goods associated with the transport. Remaining supplies in the chain
transaction represent then the supply of goods without transport, while each supply within the chain transaction can start only at the moment when the forgoing supply is terminated. This rule is to be applied whenever the chain transaction involves at least three entities. However, there may be much more participants. Theoretically, in my opinion, this rule must be examined also in the case of triangulation transactions that meet the conditions for the application of simplified procedures.