



Information for clients No. 2

Czech Republic
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Once again we address the issue of liability of the recipient of taxable supply for VAT unpaid by the provider.

Tax Liability by the Recipient

Under what circumstances does the **recipient** of taxable supply come into a position of person liable for the VAT stated on an incoming tax document?

- If the recipient knew and could have known that the tax stated on the tax document will intentionally not be paid.
- If the recipient knew and could have known that the provider of the supply intentionally came into a position where the tax cannot not be paid.
- If the recipient knew and could have known, that tax evasion or elicitation of tax benefits would take place.
- If the consideration for the provided supply is clearly divergent from the common price.
- If the consideration is paid to an account maintained abroad.
- **If the payment is made to an account other than the one which has been made public by the tax office.**
- **If the supplier is indicated as an unreliable taxpayer at the date of supply.**
- If, in the case of supply of fuel, the supplier is registered as a fuel distributor.
- In the case that liability for excise duty arises by transfer of selected goods from another member state.

How Can the Risk of Liability for Tax Be Minimized?

As the recipient of taxable supply, you can decrease the risk of liability for tax invoiced to you by your

supplier in the following manner: **In the taxpayers register, it is possible to verify that your supplier is not indicated as an “unreliable taxpayer” (see below) and that you make the payment for the provided supply to his bank account published by the tax office.**

All other conditions stated in the first paragraph cannot be objectively determined in advance, but despite this, you can reduce this risk as well in your contracts, in particular through an appropriate formulation of payment terms.

Information from the register of VAT payers must be obtained as of the date of taxable supply. The account to which payment can be made must be made public as of the date of payment. Any kind of subsequent verification, for example, when accounting for invoice received, is no longer relevant for the position of guarantor.

Publication of Bank Account Numbers for Economic Activity of VAT Payers

On 1 April 2013, the tax office is supposed to publish the bank account numbers of all persons registered for VAT in the Czech Republic. The taxpayer can choose which bank account should be made public. If the taxpayer does not notify the tax office of its preferences by 28 February 2013, all accounts on record with the tax office will be made public, or, potentially, the information that no bank account number has been determined for publication.

Unreliable Taxpayer

“If the taxpayer commits a serious violation of its obligations relating to tax administration, the tax of-



office will decide that this taxpayer is an ‘**unreliable taxpayer**’”. This is the definition extracted directly from the law.

An appeal against this decision is possible, and has a postponing effect; however, in special cases the tax office may even exclude such postponement.

The law, however, does not further specify what is considered to be a serious breach of obligations of the taxpayer. On its website, the General Financial Directorate published information according to which the following situations constitute a serious breach of taxpayer’s obligations:

- a) Such breach of obligation that results in additional alternative tax assessment by the tax office in a minimum amount of CZK 500,000.
- b) If the taxpayer has obtained, but not paid a securing order for tax due to participation in business transactions for which a justified concern that tax will not be paid exists.
- c) Taxpayer has not paid tax overdue for a period of three calendar months and the cumulative balance due is at least CZK 10 million.

All of the above-stated reasons will be evaluated according to the facts arising after 1 January 2013, and all concrete, objective reasons should also be taken into consideration. According to generally binding procedures, the first decision regarding an unreliable taxpayer could thus have been issued in the first half of February.

A taxpayer who is indicated as an unreliable taxpayer can request the issue of a decision that it is no longer unreliable after one year at the earliest.

The indication of an unreliable taxpayer is listed in the taxpayers register, which is accessible on the website of the tax administration in **Czech** ([here](#)) and **English** ([here](#)). Currently, **none** of the taxpayers has the status of **unreliable taxpayer**. ■

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■ Disclaimer

In the course of providing of bookkeeping services and processing of financial statements, AUDITOR, spol. s r. o. cannot verify whether or not, as of the date of supply, a supplier was indicated as an unreliable taxpayer or whether his bank account was made public by the Ministry of Finance. We strongly point out that in this regard AUDITOR, spol. s r. o. cannot accept any kind of responsibility.

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