

IMPACTS OF THE APPLICATION OF THE REVERSE CHARGE MECHANISM OF THE VALUE ADDED TAX

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Abstract

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Reverse charge mechanism is considered to be a specific mechanism when applying the value added tax. The liability to declare and pay the output tax is transferred to the recipient of the fulfillment within the reverse charge mechanism. Since April 1, 2011 there has been extended the application of the reverse charge mechanism to the domestic (home) fulfillments and since this date the mechanism has been applied to the delivery of slag, waste and metal scrap, defined in the Annex 5 and to the trading with the greenhouse gas emissions allowances. Since January 1, 2012 the reverse charge mechanism has been applied also for construction and assembly works which leads to a significant extension of VAT payers which this provision may affect. The paper will evaluate the impacts of the application of the reverse charge mechanism to the provider and the recipient of the taxable fulfillments, mainly for the construction works. There will be evaluated also the impacts of the administrative burden related to the evidence of the reverse charge mechanism for the tax entity and also for the tax administrator.

value added tax, reverse charge mechanism, construction works, VAT payer, person liable to tax, tax evasion

Reverse charge mechanism is based on the Article 199 of Council Directive 2006/112/EC from November 28, 2006 on the common system of the value added tax (further only the VAT Directive). This directive allows the Member States to define that the person liable to pay the tax is the taxable person to whom the listed goods are supplied or provided any of the above mentioned services. *Berger, Kindl and Wakounig* (2010) suggest that it is a measure that is intended to simplify the procedure for assessment of the value added tax and to assist in prevention of tax evasions and avoidance of the tax liabilities in the certain fields and for certain types of fulfillments. The European Union must always allow the exception from the general mechanism to the individual Member State. However each Member State has, according to *Rambousek* (2012), a problem with any other commodity and tries to solve the problems in this field by “reverse charge” (e.g. Portugal is facing frauds with frozen fish, Hungary with purchase of scrap, Czech Republic has problems in the field of

fuels, etc.). High turnovers are a common feature of the given commodities. *Rambousek* (2012) notes that in the case of Hungary the implementation of the “reverse charge” for the purchase of scrap has relatively prevented the frauds. However as a consequence there was a transfer of frauds in the field of the purchase of scrap into the Czech Republic and that was also the reason why the Czech Republic therefore implemented since April 1, 2011 the “reverse charge” for the purchase of scrap. In order to ensure the transparency, the Member States are liable to inform the VAT Committee of the implementation of the new national measures under the Article 199 of the VAT Directive. The aim of the implementation is primarily to prevent tax evasions, i.e. situations when the supplier does not pay the VAT, but the customer claims it in the full amount. Ministry of Finance of the Czech Republic sought to implement the reverse charge mechanism also to delivery of petrol or diesel with a limit over 1,500 liters per a delivery. However Council directive on VAT does not allow the implementation of such

measure to the supply of petrol or diesel. From this reason the Czech Republic has asked the exception that was not granted.

General rules of the reverse charge in the Czech Republic are contained in § 92a of Act No. 235/2004 Coll., on the value added tax, as amended (further only the VAT Act). They apply to the fulfillments referred in § 92b (delivery of gold, where this mechanism has been applied since May 1, 2004), and since April 1, 2011 to the fulfillments under § 92c (delivery of goods listed in Annex 5, such as waste paper, used rags, broken glass, waste and iron scrap or steel, copper waste and scrap, etc.) and to fulfillments under the § 92D of VAT Act (greenhouse gas emissions allowance trading). Relatively limited group of taxpayers has been affected by the implemented reverse charge at the end of 2011. Provision of § 92E of the VAT Act came into effect on January 1, 2012, under which the reverse charge mechanism has been extended to the construction and assembly works. Thanks to the implementation of the reverse charge in the building industry, there was a significant extension of the group of taxpayers, who must apply the reverse charge. VAT Act provides that the reverse charge mechanism contained in § 92a can be applied only to the realized taxable fulfillments with the place of the fulfillment in the home country.

MATERIALS AND METHODS

The aim of this paper is, on the basis of the analysis of the reverse charge mechanism in the application of the VAT, to assess the impacts of its application to the provider and to the recipient of the taxable fulfillments mainly for the construction works. Based on the findings there will be further evaluated the impacts of the administrative burden related to the evidence of the reverse charge for the tax entity and also for the tax administrator. The paper also defined the problems, based on deduction and subsequent verification on a defined sample of VAT payers, which arise in connection with the performance of the collection of the value added tax applying the considered reverse charge mechanism. There were used standard scientific methods that allow objective and systematic, qualitative and quantitative description of the given issue. Method of analysis, comparison, description, deduction and modeling were used in order to fulfill the aim of the paper. For the deduction of the conclusions the method of synthesis was applied. The analysis and comparison were the bases for the research and the final proposals were formulated based on comparing and processing of discovered differences.

RESULTS AND DISCUSSION

Kubátová (2010) states that an important positive feature of the value added tax as a whole is the provision of the protection against the tax evasions.

She attributes this feature to the tax refund system based on the evidence of the paid input and output tax due to existing documents, which can be potentially controlled by the tax office. Šírokový (2008) says that direct and open violation of the laws, always beyond the applicable law establishing the criminal liability of the taxpayer, is considered to be an illegal tax evasions. Although the value added tax has attributed feature of the protection against the tax evasions, there was a weak resistance of this tax against the tax evasions for some commodities or services. A possible solution in order to fight the frauds in this field is the implementation of the reverse charge mechanism (national reverse charge). That was the impulse for the release of Directive 2009/0139 (CSN), which amended Directive 2006/112/EC, which regulates the common system of value added tax within the countries of the European Union. Based on this directive, the mechanism of voluntary implementation of the approved system in the individual Member States was inserted into the original directive. The directive defines that until December 2014 states may implement and use the reverse charge mechanism for a period of at least two years. The Directive also provides to which type of services or goods can be applied the given mechanism. Furthermore directive also defines the conditions that the country that decided for the implementation of the reverse charge, must fulfill. We believe that the reverse charge mechanism is one of the most effective institutions to fight the tax evasions with great potential for the future. Its further development and implementation can significantly help in the fight against tax evasions. It is necessary to realize, as mentions Šírokový (2012), that the fight against tax evasions must be carried out using efforts and tools of the individual countries or the European Community as a whole. The burden of the fight against tax frauds cannot be transferred to companies or individuals who should explore and obtain difficulty available information of with whom they are trading.

The Czech Republic has decided, in an effort to prevent tax evasions, to implement the reverse charge mechanism in its law system. According to the information of the Czech Tax Administration *The fight against tax evasions from May 19, 2011*, the aim of the implementation of this mechanism is to eliminate the tax frauds with deliberate non-payment of the output value added tax in the business chain. The reverse charge mechanism has been implemented in the Czech Republic by the amendment of the VAT Act with effect from April 1, 2011. In this amendment there was newly introduced provision under § 92a to § 92d. General definition of this mechanism is contained in § 92a and further there are defined the individual items that are liable to the reverse charge. These include the supply of gold, where this mechanism has been applied since May 1, 2004. Furthermore since the April 1, 2011, these items has been included

the delivery of goods listed in Annex 5 of the VAT Act – delivery of slag, waste paper, used rags and metal waste and scrap, trading with greenhouse gas emissions allowance and since January 1, 2012 also provision of construction and assembly works.

Reverse charge mechanism

The reverse charge mechanism is a procedure used in the field of the value added tax and is applied only to transactions between two taxpayers. The essence of this system is to transfer of the tax liability from the supplier (provider of taxable fulfillment) to the customer (recipient of taxable fulfillment) and that is applied for the goods and services defined by the law. The following text will be focused on the problem of the reverse charge in the case of the provision of construction or assembly works (§ 92e). For this field it is used the reverse charge mechanism when providing construction works, which, according to the communication of the Czech Statistical Office on the implementation of the Classification of Products (CZ-CPA) published in the Legal code corresponding to the number code of the Classification of products CPA 41 to 43. Furthermore it must be applied that the fulfillment was performed in the home country between VAT payers for the economic activity of the recipient of the fulfillment. Group of the VAT payers is also made by voluntary VAT payers. Voluntary registrations to VAT are typical in relation to the provision of construction works related to housing, where there is the application of a reduced VAT rate. However the purchases of construction materials are performed in the standard VAT rate. Therefore it is advantageous to become a VAT payer also for persons liable to tax which do not reach the legal limit for the compulsory VAT registration.

Recipient who within its economic activities receives fulfillments in the form of construction or assembly works, which are liable to the reverse charge, has on the one hand the liability to declare and pay the tax from this fulfillment and on the other hand he is also entitled to apply the deduction of input tax according to § 72 of VAT Act. Tax is therefore declared in tax return for the relevant taxable period and the claim to deduction is applied with regard to the scope of application of the fulfillment for its economic activities. Recipient of the construction works has the claim to deduct the tax in that period when the liability to pay output VAT was created. In this case he does not have to meet the condition that the invoice (tax document) was delivered in the given taxable period.

When providing the service according to § 21 paragraph 5 of the VAT Act, the service is carried

out by the day of its provision or by the date of the release of the invoice (with the exception of payment schedule or document confirming the received payment) and by the date that occurs first.¹ The building contractor and provider of assembly works are liable under the reverse charge mechanism to issue an invoice (tax document) with all requirements of the regular invoice including tax rates, but with the exception of the tax amount. Since January 1, 2013 document issued within the reverse charge mechanism may not have to according to § 29 paragraph 3 of the VAT Act include the tax rate but the text “tax will be paid by customer” must be included in it. Since 2013 the recipient of the fulfillment has been liable to fill the tax amount in the evidence for the tax purposes but he does not have to fill it in the invoice.

Both recipient and provider have a liability to keep records of the fulfillments received under the reverse charge mechanism and to present a statement from these records to the competent tax authority. If in connection with a fulfillment, that applies the reverse charge mechanism, there is an acceptance of advance (payment), it is necessary to follow § 92a paragraph 1 of the VAT Act. There is stated that the payer, for whom the taxable fulfillment was realized using the reverse charge mechanism, is liable to declare and pay the tax at the day of the performed taxable fulfillment. Therefore the general provision based on § 21 paragraph 1 of the VAT Act, which defines the liability to declare the tax also at the date of the receipt of payment (advance) in the case when the payment is received earlier than the taxable fulfillment is performed, will not be apply. The liability to declare the tax during the receipt of the payment will not therefore apply within the reverse charge mechanism. The liability to issue an invoice occurs at the moment of the realization of the taxable fulfillment. The reverse charge mechanism is not applicable if the taxpayer provides assembly and construction works to recipient who is not VAT payer, and also in the case, when the building contractor and provider of assembly works are not liable to VAT. Another exception, when the reverse charge mechanism is not applicable is when the recipient of the fulfillment (VAT payer) does not acquire received taxable fulfillment for its economic activities.

In the case that the recipient of the construction or assembly work provided in the home country is a person registered for the VAT in another Member State or a foreign entity who is not liable to VAT in the Czech Republic, it is valid that this person becomes liable to VAT in the Czech Republic at the day of the provision of this fulfillment. Reverse

1 For the construction works is typical their providing on the basis of the contract for work, when according to § 21 § 6 letter a) of VAT act, the taxable fulfillment occurs at the day of acceptance and handover of the work or its fractional part or the construction works are provided as partial fulfillment and then on the basis of § 21 paragraph 9 of the VAT act, the fulfillment is considered to be effected at the day specified in the contract.

charge, which is defined in § 92a, can be applied only for performed taxable fulfillments with a place of the fulfillment in the home country. *Ledvinková* (2012) states that from the perspective of the Czech law, a person registered in the EU and at the same time taxpayer must prefer to use domestic (home) reverse charge. This person therefore cannot invoice this works using the VAT number assigned at the place of his business in another Member State.

Effects of application of the reverse charge mechanism for VAT to the provider and the recipient of taxable fulfillments

Problems with the inclusion of specific activities within the individual codes of the Classification of product.

Provision of construction and assembly works (regardless of whether these are services or supply of goods with installation in terms of the definition according to the VAT Act), which according to a statement of the Czech Statistical Office correspond to the number code of the Classification of product CZ – CPA 41 to 43 that came into effect on January 1, 2008, is liable to reverse charge mechanism under § 92e of the VAT Act.

In some cases correct classification of the provided fulfillment according to the classification of CZ – CPA is the basic problem. It is a non-tax issue, but with serious tax impacts. The classification does not contain clear criteria for the categorization and even examples which were published by General Financial Directorate do not explain the philosophy of the correct classification.

There is a serious problem in connection with the assessment whether the billing of the separate items causes that the individual items are the price for individual fulfillments with the separate taxable mechanism or they are sub-components of the price for a fulfillment with single mechanism or they are main and secondary fulfillments, to which the mechanism for main fulfillment will be apply. This problem was solved on the Coordinating Committee on January 22, 2012, where it was agreed that the mechanism for the main fulfillment will be applied also to secondary fulfillment.

If the reverse charge mechanism is not applied for the fulfillments, for which it is according to the VAT Act, respectively according to the opinions of the tax administrator, mandatory, it means that the provider of the fulfillment will quantify the tax in the invoice and he will be liable to pay it. On the contrary the recipient does not fulfill his liability to pay the output tax. If he has within these fulfillments the full claim to tax deduction, he will not cut his tax liability by not using the reverse charge mechanism. The problem for the recipient of the fulfillment is the application of the claim to tax deduction, which he wrongly stated in the invoice and he provided fulfillments in the cases when the reverse charge mechanism should have been applied. Because this tax is indicated on the document contrary to the provisions, the recipient of the fulfillment cannot claim this tax deduction, because according to § 72

of the VAT Act, the taxpayer may claim a deduction only for the tax applied according to the law. By the application of deduction of this wrongly indicated tax, the recipient of the fulfillment would incorrectly reduce its tax liability and this tax can be together with the sanctions additionally assessed to him by the tax administrator.

The opposite situation, when the reverse charge mechanism is used for construction works and should not be applied because these are not the activities defined by codes of the classification of product CZ-CPA 41 to 43 it has been newly modified in paragraph 2 of § 92e of the VAT Act since 2013. If the building contractor will apply the reverse charge mechanism and the recipient of the works will fill the tax amount in the tax records, it is considered that the fulfillment is liable to the reverse charge mechanism and there will be no sanction for the taxable entities.

The problem with determining the recipient of the fulfillment and the purpose of the application of the provided fulfillment

Reverse charge mechanism is applied only between taxpayers. General Tax Directorate states that, beyond the VAT Act, it is essential that the person who receives taxable fulfillments would behave as a person liable to tax for the given fulfillment. Here the provider of construction and assembly works must verify whether the recipient of the fulfillment is liable to VAT and whether he will use the given fulfillment for its economic activities. When making an order the recipient of the fulfillment therefore will need to know whether the fulfillment will be received for its economic activity or not so that the provider of the fulfillment would correctly applied the tax mechanism. If the fulfillment is not intended for the economic activity of the recipient, the reverse charge mechanism will not be applied and the building contractor will pay the output VAT from the provided fulfillment. For the providers of the fulfillment it may be difficult to determine whether the recipient will apply the received fulfillment for the business activities. That is the reason why there is in the conclusions of the Coordination Committee from February 22, 2012 stated that if the customer (purchaser) provides a valid VAT number to the supplier, he is treated immediately as the person acting as the person liable for the tax (taxpayer) and from this point of view the condition for the application of provision of § 92a of the VAT Act is fulfilled.

Administrative demands of the reverse charge mechanism

Administrative demands of the application of the reverse charge mechanism are affected by the application of this problem in the used accounting program. In some accounting programs, the recipient of the fulfillment must issue for the payment of the VAT and application of the

deduction two other documents in the program. Based on these documents, the tax base and the tax are reported in line 10 or 11 (depending on the tax rate) of the tax return and the claim to the deduction is in line 43 or 44 of the tax return.

This can be for those who are liable to pay VAT for a large number of received fulfillments very burdensome and the number of documents in accounting is significantly increases. For building contractor is administrative burden generally lower, they must only select the correct VAT classification code on which basis the VAT on output is not applied for the fulfillment and fulfillment is reported in the line 25 of the tax return.

Taxpayer, who performed fulfillments in the reverse charge mechanism and also the recipient of such fulfillments, must keep the records for tax purposes according to § 92a paragraph 6. They must subsequently submit statement of tax records for tax purposes conducted under § 92a of the VAT Act, which is submitted electronically, to the tax administrator in the period for the filing the tax returns. Statement from the evidence may be submitted via data message through the tax portal of the Czech Tax Administration. The electronic signature is necessary for this submission. Another option is sending a statement from evidence using the data box which mainly refers to legal entities which have data box established by the law. If the taxpayer does not have an opportunity to provide tax records by any of the methods described above, he may submit these records via tax portal without electronic signature and subsequently he confirm in writing the submission to the tax administrator within five days. In our view the need of written confirmation of submission unnecessary burdens the taxpayers. If the electronically submitted summary corresponds to the values specified in the tax return, there is no reason that the VAT payer would have to confirm in writing that he personally sent the statement of tax records.

Impact of the reverse charge mechanism with respect to the cash flows

For the VAT payers the reverse charge mechanism has also an effect on a cash flow both for the recipient and for the provider of the fulfillments. Within the reverse charge mechanism the recipient of the fulfillments must consider the output tax and at the same time the input tax deduction in the same amount, if he has the full claim to tax deduction, in frame of his tax returns. The reverse charge mechanism has a positive impact on the cash flows of the taxpayers who apply a full or partial claim to VAT deduction. In comparison with the previous situation, when the VAT from taxable fulfillment

was paid by the recipient to the supplier and he subsequently he claimed paid VAT as a claim to tax deduction, the tax will be balanced within one tax return.

The positive effect of the implementation of the reverse charge mechanism to the cash flow on the side of the recipient will significantly affect the quarterly taxpayers. If the taxable fulfillment has been realized at the beginning of January in accordance with the regulations valid to the end of 2011, the recipient had to pay VAT to supplier, but he proved the claim for a tax deduction in tax return for the first quarter (i.e. at the latest at April 25). Possible excessive deduction was returned to him by the tax administrator within 30 days since the latest term for a filling a tax return, so the return of these funds was realized in May at the earliest. In case that the provider was quarterly payer too, so then the collected VAT constituted for him a certain form of non-interest credit until its payment (till the end of 2011).² It is necessary to realize that positive impact on cash flow of recipient after implementation of the reverse charge mechanism is redeemed by the opposite situation on the provider side. The implementation of the reverse charge mechanism by the state will eliminate the risks, when the provider does not pay the VAT to state (e.g. he bankrupts), but the state must refund the deduction to the customer (purchaser).

Impacts of the reverse charge mechanism to different types of construction companies

Building company which provides most of the construction works by itself and is purchasing only a minor part of the works from subcontractors will apply the reverse charge mechanism mainly for the supply of work on output. Output tax in these entities will be zero or very low, and they will generally produce excessive deduction from the purchased building materials and machinery. This type of construction companies may be disadvantaged by the implementation of the reverse charge mechanism, because they will receive back the VAT, which they must pay to its suppliers when purchasing materials, by refunding the excessive deduction by the tax office.

In cases that the construction works which are carried out directly by the construction company, will be conducted for non-payer, so the VAT will be paid on the output using standard mechanism and the reverse charge mechanism will have no impact on the construction company.

If the provider of the construction works is a building company, which purchases most of the works from subcontractors, the reverse charge mechanism will be applied during the purchases of

² In this context we have to calculate also with a due date of the invoices. There is a typical long due date in the civil engineering, in some cases even 180 days. The above introduced facts would show the opposite effect in case of long due date (in case of monthly payers more than about 90 days, in case of quarterly payers more than about 150 days).

construction works and also in subsequent billing of the entire construction work that is delivered to VAT payer. This type of construction companies will have the final tax liability generally lower because there is created the liability to pay VAT from these acquired construction works, but at the same time the full claim to deduction is applied and on the output there is not liability to pay the VAT due to transfer of the liability to the customer (purchaser). The impact of the reverse charge mechanism to these entities is therefore positive.

If the construction company purchases most of the works and the construction work is delivered to non-payers of VAT, the reverse charge mechanism will be applied on the input and the VAT will be paid on the output using the standard mechanism. In this type of organizations there will be usually created the own tax liability.

The creation of the own tax liability or excessive deduction for construction companies will also be affected by the fact whether they are making construction works which are liable to the standard or the reduced VAT rate.

The impact of the reverse charge mechanism in relation to the non-payment of the issued invoices

Currently there are problems with customers who do not pay received invoice in time or they do not pay them at all. This has a negative impact on cash flow management of the supplier company. Another inconvenience arises to supplier companies in connection with the liability to pay the value added tax also from the invoices that have not been paid. In connection with the reverse charge mechanism there can be seen a positive change in this field. Using this mechanism the supplier of the fulfillment does not have any more the liability to pay the value added tax from the issued invoices. The new mechanism includes also received advances (prepayments) for the construction works, so that since January 1, 2012, the VAT has not been assessed and also there is no need to issue tax document for the received payment.

Example 1: The impact of the reverse charge mechanism in relation to the non-payment of the issued invoice

In the following example we will assume that in the relevant tax period there is realized only given taxable fulfillment between VAT payers and it is used for the economic activity of the recipient.

a) *Situation when invoicing between VAT payers during realization of the construction works by the end of 2011:*

Building contractor is billing to the customer the construction works for 100 000 CZK + 20 000 CZK (VAT). Customer does not pay to building contractor for the invoiced works. Even if the customer has not paid, the building contractor is liable to pay 20 000 CZK to the relevant tax administrator. Customer claims the VAT in amount of 20,000 CZK which the competent Tax Office remits to the customer. Here it is evident that the customer receives the excessive deduction, even if he has not paid the invoice.

b) *Situation when invoicing between VAT payers using reverse charge mechanism:*

The building contractor is billing to the customer just the amount without VAT, that is only 100 000 CZK for the construction works. The customer does not pay these 100,000 CZK. The building contractor does not have to pay VAT, since the liability to declare and pay the tax from this transaction in the amount of 20,000 CZK has the customer (currently at the same time he is entitled to apply the tax deduction in the amount of 20 000 CZK).

We see the current definition of the claim to VAT deduction as unfair. The customer, who does not pay to his supplier, will ultimately improve his cash flow, since he gained favor in the form of goods and services that he did not pay and in addition the tax administrator will refund him the VAT that has not been paid by the customer to the building contractor. Here it is obvious that the reverse charge mechanism is eliminating the negative phenomenon. In cases where the issued invoice is not paid, the reverse charge mechanism is favorable and also fair for the suppliers since they are not liable to pay VAT to tax office.

Impacts of the implementation of the reverse charge mechanism to VAT collection and VAT arrears

Tab. I shows that in 2009 there was a year-on-year decline in VAT collection that was primarily caused due to a decline in the performance of the economy as the consequence of the economic crisis. Since 2010 the VAT collection has been growing again.

In 2012 the VAT collection increased only by 2.8 bln. against 2011 despite the significant increase in the reduced VAT rate from 10% to 14%. Increase in collection in 2012 was much lower than was expected impact of the increase in VAT rate. Low growth of the collection in 2012 was caused due to the declining performance of the economy and at the same time due to an increase of VAT arrears. Low growth of collection in 2012 and growth of arrears in 2011 and 2012 show that the implementation of the

I: *Development of the VAT collection and VAT arrears in mil. CZK*

Year	2005	2006	2007	2008	2009	2010	2011	2012
VAT collection	208 413	217 784	239 782	255 190	253 612	269 548	275 393	278 231
Total amount of VAT arrears	40 707	43 338	44 056	45 631	48 019	58 978	68 725	82 505

Source: Czech Tax Administration, analysis and statistics

II: Annual increase in VAT arrears in CZK million

Years	2006–2005	2007–2006	2008–2007	2009–2008	2010–2009	2011–2010	2012–2011
Annual increase in VAT arrears	2 631	719	1 575	2 388	10 959	9 747	13 781

Source: Czech Tax Administration, analysis and statistics

III: Share of annual increase in VAT arrears to the annual VAT collection

Years	2006	2007	2008	2009	2010	2011	2012
Share of annual increase in arrears	1.21%	0.30%	0.62%	0.94%	4.07%	3.54%	4.95%

Source: Czech Tax Administration, analysis and statistics

reverse charge mechanism did not contribute to the improved VAT collection.

Tab. II shows the annual increase of VAT arrears from 2005 to 2012. The data shows that year-on-year the arrears increased in 2006 by 2.6 bln., in 2011 by 9.7 bln. and in 2012 it was by 13.7 bln. Tab. III shows that in 2011 and 2012 there was a significant increase in the share of arrears to the VAT collection to 3.54% and 4.95%. One of the reasons for the growth of the arrears may still be also tax frauds within the chains of companies, when there is applying input VAT, but not paying output tax. The implementation of the reverse charge mechanism prevented these tax evasions in the field of construction and trade with waste, but there was a transfer of these tax evasions to the field of transactions with other commodities.

CONCLUSIONS

The aim of the implementation of the reverse charge is especially an effort to eliminate situations when the supplier does not pay the VAT on a output from performed taxable fulfillments, but the customer claims this VAT as a deduction in a full or eventually shortened amount. Application of the reverse charge mechanism for the selected commodities has been accepted not only from the reason of the existing tax frauds, but also because the other EU Member States have already implemented the reverse charge or are about to implement it. Then Czech Republic would therefore face the extreme flow of frauds with these commodities.

The transfer of the tax liability to the recipient of the fulfillment is thus one of the tools that help to remove the tax fraud in the VAT field. As already mentioned above, just possibility of deduction on the input tax creates the space and motivation for frauds. Therefore we suggest that despite the problem fields, which can be observed in connection with the implementation of the reverse charge, is this instrument the right move in the solution of tax evasions. Its disadvantage is seen in the application only to the selected commodities and services. These are a risk commodities and services which are used for fraudulent behavior. They are recognized as risky subsequently and that is the reason why the tax administrator will be in his supervisory and

collection activities always one move backwards the organizers of frauds.

On the basis of statistics published by the Financial Administration of the Czech Republic from tax return data it is possible to make a comparison of taxable supplies subject to tax rates in the construction sector. In the year 2011 taxable supplies in the construction sector of 130.6 billion CZK were at the reduced rate and taxable supplies of 456.3 billion CZK at the standard rate. In the year 2012, the number of claimed taxable supplies at the reduced rate decreased to 53.6 billion CZK and at the standard rate to 165.9 billion CZK. This decrease was caused by introduction of reverse charge and at the same time it was caused by decrease in construction of about 6.5% in comparison with the year 2011. As a consequence of reverse charge, excessive deductions in the amount of 8.3 billion CZK were reported in this sector in comparison with tax liability of 20.5 billion CZK in the year 2011. Tax liability in the construction sector was also significantly influenced by the change to the reduced tax rate of VAT from 10% to 14%. As consequence of imposing tax liability on the purchaser (a person who receives taxable supplies) tax liability shifted from the construction sector to other branches. It is impossible to calculate the exact impact of reverse charge in the construction sector on the total collection of value added tax.

As results from the development of VAT collection and also from arrears development, the implementation of the reverse charge mechanism is not significantly reflected on a better collection of the value added tax. Growth of the VAT arrears was in 2011 and 2012 higher than in the previous years. Frauds with the application of VAT deduction have been moved into the other field, e.g. to the field of the intangible services, as processing of the various projects, studies, etc., where it is very difficult to prove fictitious pre-invoicing of these services. At the same time it should be also noted that the application of the reverse charge cannot prevent tax evasions, which are created in the case when the VAT payer will provide fulfillment to the private person without an invoice and he does not pay the VAT and neither income tax from this fulfillment. It can be assumed, that the liability to submit a statement from the evidence of provided and

received fulfillments in a reverse charge mechanism to the tax authorities, will have a positive effect on the collection of income tax, since the tax entities will no longer be able to easily hide the incomes from performed fulfillments for the other taxpayer.

We believe that further significant extension of the range of goods and services, to which is applied the reverse charge mechanism would be very complicated. Tax subjects and also tax administrators would be very burdened if, for example, a third of all transactions would be realized in the reverse charge mechanism and the

rest of these would be realized in the standard mechanism. One from the possible solutions would be to apply the reverse charge mechanism to all fulfillments carried out between tax payers and it would of course mean the fundamental change in the Directive of VAT and the Czech Law on the value added tax. Consequently there should be an extensive change of the accounting software, so that application of the reverse charge mechanism as a basic mechanism would be much easier for the tax subjects than nowadays.

SUMMARY

The aim of this paper is, on the basis of the analysis of the reverse charge mechanism in the application of the VAT, to assess the impacts of its application to the provider and to the recipient of the taxable fulfillments mainly for the construction works. Since January 1, 2012 the reverse charge mechanism has been applied also for construction and assembly works which leads to a significant extension of VAT payers which this provision may affect. Reverse charge mechanism is considered to be a specific mechanism when applying the value added tax. The liability to declare and pay the output tax is transferred to the recipient of the fulfillment within the reverse charge mechanism. The aim of the implementation of the reverse charge is especially an effort to eliminate situations when the supplier does not pay the VAT on a output from performed taxable fulfillments, but the customer claims this VAT as a deduction in a full or eventually shortened amount. The paper focused on the impact of application of VAT reverse charge regime to the provider and recipient of taxable supplies of construction works, with regard to the following problems the inclusion of specific activities into each product classification codes, determining the recipient of taxable supplies and purpose of the supply, and administrative burden of VAT reverse charge procedure. Effects of VAT reverse charge regime on cash flows were researched in various types of construction companies. Finally, these effects were evaluated with regard to the total collection of VAT and VAT arrears. As results from the development of VAT collection and also from arrears development, the implementation of the reverse charge mechanism is not significantly reflected on a better collection of the value added tax. Growth of the VAT arrears was in 2011 and 2012 higher than in the previous years. We believe that further significant extension of the range of goods and services, to which is applied the reverse charge mechanism would be very complicated. Tax subjects and also tax administrators would be very burdened if, for example, a third of all transactions would be realized in the reverse charge mechanism and the rest of these would be realized in the standard mechanism. One from the possible solutions would be to apply the reverse charge mechanism to all fulfillments carried out between tax payers and it would of course mean the fundamental change in the Directive of VAT and the Czech Law on the value added tax. Consequently there should be an extensive change of the accounting software, so that application of the reverse charge mechanism as a basic mechanism would be much easier for the tax subjects than nowadays.

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