

TAX NEWSLETTER (8 December 2021)

Dear Clients and Business Friends,

The latest edition of our newsletter contains information about changes in the tax area and related regulations. We hope you will find this information useful.

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1. INTRASTAT: CHANGES FROM 1 JANUARY 2022

Effective from 1 January 2022, the method of disclosing statistic data in the Intrastat system will change. The changes involve changes in terminology, the introduction of an option of simplified reporting, an extension in the scope of data to be reported, and a restriction in the nature of transaction codes. Please find below details on the most significant changes.

Change in Terminology

Replacing the current term “dispatch”, “export to another EU member state” will newly be used; the term “receipt” will be replaced by “import of goods from another EU member state”. Since similar terminology has been used in the VAT area, attention should be paid to avoid unwished confusion of transactions because only transactions with goods involving other than EU countries are described as “exports” and “imports” for VAT purposes; however, such transactions are not included in the Intrastat report.

Reporting Thresholds

The reporting threshold remains at CZK 12 million for both exported and imported goods.

Simplified Reporting

An option to apply simplified reporting will newly be introduced for reporting entities that exceeded the above-provided reporting threshold but did not exceed the aggregate value of exported or imported goods in the amount of CZK 20 million in the current or previous calendar year (this criterion shall be considered separately for each direction). Application of this option is also conditioned by the reporting entity not trading commodities specified in the Advice of the Czech Statistic Authority about a list of goods, to which simplified reporting does not apply¹ (e.g. certain agricultural commodities, heavy oils or gasoline) in the particular direction.

Reporting entities whose trades did not exceed the CZK 20 million threshold for the particular direction in the previous year can deliver a simplified report within the deadline for the Intrastat statement for January; such simplified report will only include the direction of the goods' movement (import/export), the reference period and the "ZH" code of the sentence type. Those reporting entities will not file any reports in the months to follow, specifically until their trades' volume in the particular direction exceeds CZK 20 million or they start trading in goods for which simplified reporting is not permitted. After that, the reporting entities will report data for Intrastat in the full scope and will send statements with data on particular goods on a monthly basis. Data on particular goods for a period of time, over which simplified reporting was used, are not retrospectively reported.

The same procedure is applied by entities that newly exceed the reporting threshold at CZK 12 million in the concerned year and were obliged to sign up for Intrastat reporting. They will send a simplified report showing the "ZH" code within the deadline for the submission of the Intrastat statement for a reference period, in which they exceeded the reporting threshold.

The application of simplified reporting is voluntary and the locally competent customs authority is not notified thereof. The simplified reporting regime can only be opted for by reporting entities with a volume of trades with other EU member states between CZK 12 and 20 million that, at the same time, do not trade in goods specified in the above-mentioned Advice of the Czech Statistic Authority. Hence, the volume of trades in individual directions and the type of traded commodities must continue to be monitored where this regime is applied.

If reporting entities apply the simplified reporting regime and the volume of their trades in the reported direction does not reach the CZK 12 million threshold in the concerned year, the entities are obliged to notify the competent customs authority in writing (through a "Notice of a Change in Registration Data" form) of ceasing to file the simplified report. The same notice must also be submitted by reporting entities that had to file monthly reports during the year due to their trading in commodities specified in the Advice

¹ The Advice should be published in December 2021.



of the Czech Statistic Authority, if the total volume of their trades in the particular direction did not exceed CZK 12 million.

Simplified Reporting: Small Shipments

From January 2022, the threshold for simplified reporting of small shipments will be increased from the existing EUR 200 to EUR 400.

New Data in Statements

Data on the country of origin for exported goods and on the tax identification number or a similar number of a partner entity in an EU country, to which the goods will be exported, will newly have to be reported in connection with exports of goods to another EU member state. Where the partner entity does not have such tax ID or where it is not known to the reporting entity, the code “QV123” will be used in the statement.

Using data on the tax ID, financial administration will be able to better compare data reported in Intrastat reports with VAT reports and, in addition to this, it will also be able to more efficiently use statistic information about goods obtained thanks to the Intrastat statements as part of its inspection activities in the income tax area.

Nature of Transaction Codes

The number of the nature of transaction codes will be reduced and such codes will be harmonised within the EU. A list of individual codes with a description of the transactions' nature and a nature of transaction codes' converter are published on the website of the Czech Statistic Authority² ([here](#)). Due to the large number of changes, we recommend studying the new nature of transaction codes prior to completing the report for January 2022.

Rounding of Supplementary Units of Measure

Another simplification in data reporting has to do with the quantity of goods, which is expressed in supplementary units of measure. The supplementary units of measure will newly be rounded in the same way as weight itself, i.e. three decimal points will be provided for a quantity below one, and a quantity higher than one will be rounded to a whole number.

² <https://www.czso.cz/csu/czso/nove-kody-povahy-transakce>



Additional Changes

If the time period between an import or export and the taxable supply is greater than two calendar months, the reference period will be the month, in which the import/export was performed from 1 January 2022.

Additional changes relate to reporting the “one hundred percent credit note” where the seller returns the whole price paid for the delivered goods to the buyer if such goods are not returned. In such case, the originally filed report will have to be corrected and the reported value of the goods will have to be decreased.

Technical Information

Tools for conversion of formats and aggregation of csv files as well the structure of the importing csv file into Intrastat applications effective from 2022 can be found on the Customs Authority’s website³ ([here](#)). A testing version of InStatDesku to test the new structure of the csv files is also available on that website.

2. VAT: TAX EXEMPTION FOR GAS AND ELECTRICITY

The Minister of Finance decided on exemption of value added tax for electricity and gas supplies where the obligation to file a tax return originated in the period from 1 November 2021 through 31 December 2021. This decision brought along a huge number of interpretation and practical issues that the General Financial Directorate tried to clarify by issuing several pages of information, the intention being to provide practical support in applying VAT exemption for those commodities.

The decision on tax exemption suffers from a major weakness, which is contradiction with the EU Directive on the common system of value added tax. Such contradiction apparently results in the option of applying a direct effect of the Directive, i.e. ignoring the exemption. Nonetheless, we need to draw attention to the fact that the financial administration denies the possibility to apply the Directive’s direct effect in this particular case, and it is likely in the event of VAT charge on such commodities that a VAT deduction will not be recognised by tax offices. We wish to note that such procedure applied by a tax administrator would apparently be illegal and entities could defend themselves against it in tax and judicial proceedings.

The resigning Minister of Finance also presented a bill to amend the VAT Act to the Chamber of Deputies of the Czech Parliament, which is intended to introduce tax exemption for the above-specified

³ <https://www.celnisprava.cz/cz/dalsi-kompetence/intrastat/Stranky/P%C5%99ehled-zm%C4%9Bn-v-Intrastatu-od-1.1.2022.aspx>

commodities with an entitlement to deduction from 1 January 2022. We consider the passing of this bill unlikely under the current political situation and due to the contradiction with the European law.

3. VAT: E-COMMERCE

A long awaited amendment to the VAT Act became effective as of 1 October 2021; this amendment primarily introduces new rules for remote cross-border sale of goods and provision of services to end-customers. However, the deadline for mandatory implementation expired on 1 July 2021 when the new rules were introduced in the whole European Union. We have informed you about this affair on our e-commerce seminar and this is only to summarise the most important changes.

Effects of the New Regulation

The amendment has a significant impact primarily on the following areas:

- Remote cross-border intercommunity sales of goods (former shipment of goods) to end-customers;
- Provision of services to end-consumers with the place of supply in another EU member state;
- Delivery of goods, which is fostered by an electronic interface provider – a digital platform;
- Remote sale of goods below EUR 150 imported from a third country directly to an end-consumer in the EU (import regime); and
- Cancellation of VAT exemption for imports of goods, the aggregate value of which does not exceed EUR 22.

The following text provides more details on the first two points that are most common in everyday life.

Remote Sale of Goods

The threshold, the crossing of which results in the place of supply being moved to the member state of the end-consumer's establishment (usually the address or the place where the end-consumer dwells) was substantially reduced to EUR 10,000.

Such threshold is determined with reference to the aggregate value of relevant supplies exclusive of tax to all EU member states (to the opposite of the previous situation where the crossing of the sales' threshold was monitored with regard to individual member states).

In addition to remote sales of goods, the value of provided "digital" services pursuant to Section 10i (3) of the VAT Act, i.e. telecommunication and electronic services and radio and TV broadcasting, are included in the supply's value.

The threshold's exceeding must be monitored in both the relevant and the immediately preceding calendar year. This rule has been effective as soon as for 2020 and 2021 due to the absence of transitory provisions, and when the turnover threshold is exceeded in any of those periods, registration is necessary in all member states where the place of supply moves, unless the one stop shop regime is applied (please see below).

One Stop Shop Regime

Application of the one stop shop (OSS) regime is not mandatory but will significantly simplify VAT payments for selected supplies where VAT is to be collected in another EU member state.

Where an entity does not opt for OSS, it is usually obliged to register and pay VAT with respect to the selected supplies in every member state of consumption where goods were delivered or services rendered.

The tax administrator with regard to the special one stop shop regime shall be the Tax Office for the South Bohemian Region, Local Office for Brno I.

The new regulation is rather complicated. If needed, we will be happy to help you both by providing a practical advice and by arranging for the registration in the OSS.

4. INDIVIDUAL INCOME TAX: CHANGES IN 2021

Increase in the Tax Relief for a Taxpayer

The basic relief for a taxpayer was increased by CZK 3,000 in 2021 to the current CZK 27,840. The relief for a taxpayer will be further increased to CZK 30 840 from 2022.

Increase in Tax Advantage for Children

In 2021, the amounts of tax advantage for children were increased. The amendment retroactively regulates an increase in the amount of tax advantage for the second, third and additional child for the whole year 2021:

- The level of tax advantage for the first child remains unchanged for 2021 and the amount of CZK 15,204 can be applied for this taxation period.
- Tax advantage for the second child was increased to CZK 22,320 for 2021.
- Tax advantage for the third and additional child was increased to CZK 27,840 from 2021.

The higher amounts of tax advantage for 2021 will only be applied during the annual settlement or upon the filing of a tax return because the original amounts of tax advantage, that were effective before the amendment, will be used in calculating the advance for tax from dependent activity for calendar months of 2021.

The change will be reflected in the monthly wage settlement and in the calculation of the advance for tax from dependent activity only during the wage processing for January 2022.

Cancellation of the Threshold for the Monthly Tax Bonus

A threshold previously applied to the level of the monthly tax bonus (the difference between the calculated income tax and the relief for children) paid by tax offices in the event of an assessed negative tax liability. It was possible to pay the monthly tax bonus in case that the level thereof was at least CZK 50 and no more than CZK 5,025 a month. This maximum amount of the tax bonus for dependent children was now cancelled.

The removal of the monthly maximum threshold of the tax bonus will only be reflected in the annual settlement or upon a tax return's filing. The change will be reflected in the monthly wage settlement and in the calculation of the advance for tax from dependent activity only during the wage processing for January 2022.

Deduction of Gifts from the Tax Base

So far, individuals could deduct the value of a gift provided for charity purposes from the tax base up to the level of 15% of the tax base. The threshold for legal persons was 10% of the reduced tax base (the tax base reduced by tax losses of previous years, by a deduction to support research and development, and by a deduction to support vocational training). The maximum amount for deduction of gifts was increased to 30% for both groups of taxpayers for the taxation periods ended or ending from 1 March 2020 through 28 February 2022.

5. INDIVIDUAL INCOME TAX: CHANGES FROM 2022

The basic minimum wage will be increased from the current CZK 15,200 to CZK 16,200 from 1 January 2022. Such change will have a direct impact on taxes in the following areas:

- The amount of exemption for periodically paid rents will be increased from CZK 547,200 to CZK 583,200;
- The maximum amount of a relief for a placed child will be increased to CZK 16,200; and

- The minimum level of income for the establishment of an entitlement to a tax bonus will be increased to CZK 97,200.

6. TRAVEL REIMBURSEMENTS: INCREASE IN RATES SINCE 19 OCTOBER 2021

The Ministry of Labour and Social Affairs determines a rate of the basic reimbursement for the use of road motor vehicles, meal allowances and the average price of fuels periodically as of 1 January of a calendar year.

The reimbursement for one litre of 95 octane automobile petrol was increased from CZK 27.80 to CZK 33.80 already as of 19 October 2021 due to a substantial increase in prices of fuels. Other prices remain unchanged. The average price of fuels since 19 October 2021 will be as follows until the end of 2021:

- CZK 33.80 for one litre of 95 octane automobile petrol;
- CZK 31.50 for one litre of 98 octane automobile petrol;
- CZK 27.20 for one litre of diesel oil; and
- CZK 5.00 for one kilowatt hour of electricity.

The level of reimbursements for 2022 has been currently discussed and will be determined by a regulation of the Ministry of Labour and Social Affairs in late December of this year.

7. TAX INFORMATION BOX

Tax administration published an upgraded version of the tax information box on the “*Moje daně*” (My Taxes) portal. Effective from 1 March 2022, it will no longer be possible to log into the original version of the tax information box (DIS).

The upgraded version called DIS+ should provide for simplified, faster and more comfortable electronic communication with financial administration. Through the tax information box, tax entities can obtain information collected in the file and on a personal tax account and information about their rights and duties, and to make filings with the use of selected information that is processed on them by the tax administrator. Among other things, DIS+ enables filing tax returns (not only for income tax), and identification data of the tax entity are automatically completed in the form and it is also possible to download data from the previous taxation period; such data are subsequently only updated or completed, which is useful for example with respect to real estate tax returns.

Logging into DIS+ will be possible through

- eidentity.cz (e.g. eGovernment Mobile Key, eObčanka, NIA ID, MojeID or Bankovní identita (Banking Identity));
- Logging data for the data box; or
- Logging data assigned by the Financial Administration of the Czech Republic.

The previously granted powers of attorney or authorisations to view DIS will no longer be valid in the new DIS+. In order for individuals such as an assistant to a statutory executive, authorised employees of a finance department or an authorised tax advisor to be able to access the tax information box, it will be necessary for a tax entity (in case of legal persons a person authorised to act in the legal persons' name, e.g. statutory executive) to personally log into DIS+ in one of the ways described above and to set up an authorisation for such individuals' access.

8. SOCIAL SECURITY AND HEALTHCARE INSURANCE: CHANGE IN PENALTIES FOR LATE PAYMENTS

The sanction for failure to meet the deadline for the payment of insurance premium for social security and healthcare insurance has been currently determined at 0.05% of the debt for each calendar day of the delay. The level of the penalty for a late payment of the insurance premium will change from 1 January 2022; the penalty will newly be determined with reference to civil laws on the level of default interest at 8% + a repo rate promulgated by the Czech National Bank for the first date of a calendar semester, in which the delay occurred.

9. JUDICIAL DECISION: APARTMENT LEASES THROUGH AIRBNB

The Municipal Court in Prague expressed their view of the issue of whether provision of apartments for a short-term use through Internet platforms such as Airbnb is (passive) renting or an (active) accommodation service. The court decided in their judgment of late August 2021 that the above involves the provision of accommodation services and, as a result, such activity has to be considered the performance of a business activity. As a consequence, individuals providing an apartment for use for a consideration in this way will have to pay social security and healthcare insurance in addition to income tax. In certain cases, such individuals may even have to pay VAT.

We hope that the information contained in our newsletter will be useful for you. We are ready to assist you in dealing with your tax affairs.

Your LTA Team