

Practical aspects of the new VAT rules

Stanislav Kryl

www.kdpcr.cz/VATforum-en

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- Consequences of definitive VAT system for
 - Czech tax administration
 - Criminal groups
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VAT rules of definitive system

- Current treatment of a transaction as IC-supply & IC-acquisition will be replaced by **one** intra-Union supply of goods
- Place of supply where the transportation ends
 - Movement of goods needs to be monitored
- VAT rate applicable in the state of destination
- VAT payable by the supplier via OSS or by a Certified customer under reverse-charge
 - Status of the customer needs to be monitored
- Input VAT deduction via OSS or VAT refund

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Consequences for Czech tax administration

- Currently, information from VAT ledgers (control statements)
 - Czech tax authorities can check within few days if the VAT claimed by customers matches with the VAT declared and paid by the suppliers
- Loss of efficient tools for fight against VAT fraud
 - Information from VAT ledgers from suppliers would be missing
 - EC Sales List (recapitulative statement) to be abolished
- Tax authorities would become blind



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Consequences for Czech tax administration



- Collected VAT CZK **322bn** (2014)
- Output VAT of CZK **1,653bn** less input VAT of CZK **1,331bn** (approx.)
- In order to collect VAT of CZK 1, tax administration needs to audit approx. CZK 9
- Upon definitive system, the ratio would become even worse (approx. CZK 15)



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Consequences for criminal groups



- Criminal groups welcome the Commission proposal

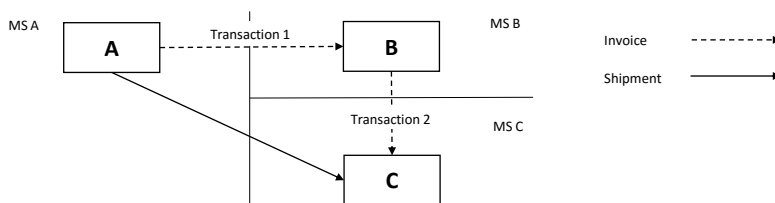
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Consequences for VAT payers

- Current system
 - Main risk connected with the incorrect allocation of transportation in chain transactions and, thus, incorrect application of exemption from VAT of intra-Community supply of goods
- Definitive system
 - The risk would just transform into the risk of application of VAT on intra-Union supply of goods in incorrect EU Member State
- Elimination of the risk
 - If goods taxed in the same way as services or gas and electricity (Articles 38, 44, 195 and 196 of the VAT Directive)

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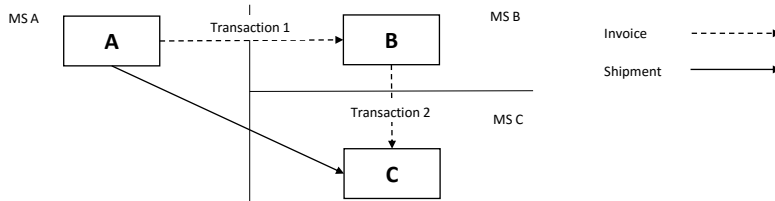
Consequences for VAT payers



- Current system
 - Transportation allocated to Tr 1
 - Tr 1 **exempt**, Tr 2 **taxable** in MS C
 - Transportation allocated to Tr 2
 - Tr 1 **taxable** in MS A, Tr 2 **exempt**
 - if simplification for triangulation not applied

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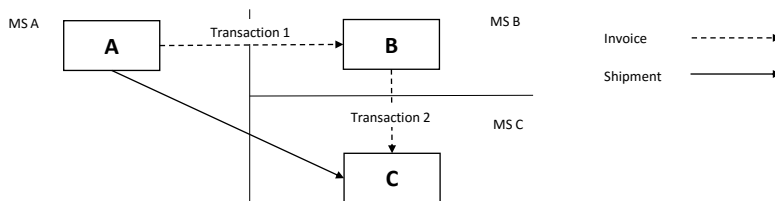
Consequences for VAT payers



- Definitive system (B & C not certified)
 - Transportation allocated to Tr 1
 - Tr 1 taxable in **MS C**, Tr 2 taxable in MS C
 - Transportation allocated to Tr 2
 - Tr 1 taxable in **MS A**, Tr 2 taxable in MS C

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Consequences for VAT payers



- General reverse charge (place of supply where the customer is established)
 - Transportation allocated to Tr 1
 - Tr 1 **nil** VAT , Tr 2 **nil** VAT
 - Transportation allocated to Tr 2
 - Tr 1 **nil** VAT, Tr 2 **nil** VAT
 - Regardless of transportation allocation, VAT treatment is the same
 - If VAT fully deductible

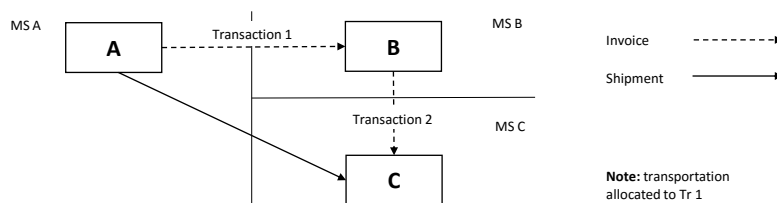
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Consequences for VAT payers

- If transportation allocated correctly, under current system
 - Suppliers just report value of supply in the VAT return and EC Sales List
 - Recipients pay VAT and claim input VAT deduction in the same VAT period => if full entitlement to VAT deduction, no VAT actually paid
 - For errors, no sanctions generally apply
 - if VAT fraud not involved

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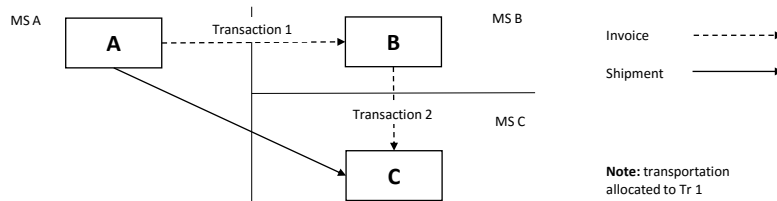
Consequences for VAT payers



- **Scenario 1: B & C are NOT certified**
- Place of taxation of both supplies in MS C (where transportation ends)
- Person liable for taxation Tr 1: A (OSS)
- Person liable for taxation Tr 2: B (OSS)
- Deduction of input VAT by B in MS C: OSS
 - If MS C Czech Republic & tax document delivered to B late => fractionated payment system does not work

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Consequences for VAT payers



- **Scenario 2: B is not certified & C is certified**
- Place of taxation of both supplies in MS C (where transportation ends)
- Person liable for taxation Tr 1: A (OSS)
- Person liable for taxation Tr 2: C (VAT return – reverse-charge)
- Deduction of input VAT by B in MS 3: Directive 2008/9/EC
 - Approx. 9 months

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Consequences for VAT payers

- **Definitive system - risks**
 - Supply by mistake reported in another EU Member State
 - sanction in the country of supply
 - potential difficulties with refund of VAT paid in wrong state
 - Certified taxable person
 - Status of certified person can change without supplier noticing
 - Reverse-charge not applicable anymore
 - Incorrect VAT rate
 - Cash-flow disadvantage

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Consequences for VAT payers

- Definitive system - risks
 - Discounts granted
 - Corrections according rules of 27 Member States
 - Unpaid invoices
 - Higher amount at risk (inclusive of VAT)
 - Bad debt relief in accordance with the rules set up by individual EU Member States (27)
 - Guarantee for unpaid VAT
 - If applied in the country of the customer, customer at risk of paying VAT twice

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Consequences for VAT payers

- Do VAT payers welcome definitive system as proposed by the Commission?

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