Aspects of the value added tax within the self assessment system and the extended guarantees for the provision of services in the countries of the European Union

Aspekty daně z přidané hodnoty v rámci systému samovyměření a prodloužené záruky při poskytování služeb v zemích Evropské unie

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Abstract: The rules of the European Union suppose the value added tax as the only general excise tax. The need for harmonization of this tax in the existing EU member states is obvious, but the results in this field are not entirely convincing. Also the provision of services is a problematic field among others in the implementation of value added tax. It is essential to examine the issue of the value added tax, in this case, both the possibilities of the use of the self assessment system of the value added tax by the recipient of the service compared to the accounting of service including the value added tax by a provider of this service, even if the provider of service from the EU member state shall have a permanent establishment in other member state of the customer, but this establishment is not involved in the provision of the service, as well as the inclusion of services within the so-called extended guarantee to the taxable or exempt fulfilment, when the subject provides the technical support and the assistance to its customers, such as in the case of failures of agricultural machinery, which the provider had supplied to a subject in other member state. On the basis of empirical research, it is needed to assess the results of the harmonization efforts, to identify and recommend the direction in which the European Union should take in this field. The comparison of the individual European Union countries is important here. Value added tax is, regarding its features, still an unsurpassed excise tax, even if it has some weaknesses. The technique of the selection of this tax enables to discover the paid tax at all stages of treatment and it is very appropriate, due to its features for the use in international trade. It is therefore necessary to ensure the sufficient clarity, lucidity and equal conditions for players from the European Union on the basis of the development and adaptation of the rules of the value added tax set at the European Union level within each European Union country.

Key words: VAT, services, self assessment system, extended guarantee, EU

Abstrakt: Pravidla Evropské unie připouštějí daň z přidané hodnoty jako jedinou všeobecnou daň ze spotřeby. Potřeba harmonizace této daně v rámci stávajících členů Evropské unie je zřejmá, avšak výsledky v této oblasti nejsou zcela přesvědčivé. Problematickou oblastí je mimo jiné v rámci uplatňování daně z přidané hodnoty i poskytování služeb. Je podstatné zkoumat problematiku daně z přidané hodnoty, v tomto případě jednak možnosti využití systému samovyměření daně z přidané hodnoty příjemcem služby oproti účtování služby včetně daně z přidané hodnoty poskytovatelem této služby i v případě, že poskytovatel služby z členského státu Evropské unie bude mít v jiném členském státě zákazníka stálou provozovnu, ale tato provozovna do poskytnutí služby není zapojena, a také zařazení služeb v rámci tzv. prodloužené záruky do zdanitelných či osvobozených plnění, kdy subjekt poskytuje svým zákazníkům služby technické podpory a asistence, například v případě poruch zemědělského stroje, který poskytovatel dodal subjektu do jiného členského státu. Na základě empirického výzkumu je pak třeba posoudit výsledky harmonizačních snah, identifikovat a doporučit směr, kterým by se

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Evropská unie v této oblasti měla ubírat. Podstatné je srovnání jednotlivých zemí Evropské unie. Daň z přidané hodnoty je, co se týče jejích vlastností, dosud nepřekonanou daní ze spotřeby, přestože má i některá negativa. Technika výběru této daně umožňuje zjistit zaplacenou daň na všech stupních zpracování a vzhledem ke svým vlastnostem je velmi vhodná k použití v mezinárodním obchodě. Proto je třeba dbát na dostatečnou jasnost, přehlednost a rovné podmínky pro subjekty ze zemí Evropské unie na základě tvorby a úpravy pravidel daně z přidané hodnoty stanovených na úrovni Evropské unie i v rámci jednotlivých zemí Evropské unie.

Klíčová slova: daň z přidané hodnoty, služby, systém samovyměření, prodloužená záruka, Evropská Unie

There still exist the differences in the legal frame of VAT, its interpretation and application of the rules in the practice between the EU member states (Nerudová, David 2008). The long-term aim of the European Commission is to eliminate the undesirable differences in tax systems in the EU member states, either through the tax harmonization and coordination so that they are not a threat to the smooth functioning of the single market, not causing the market distortions and obstacles of the tax nature are not the cause of the inefficient allocation of production factors and production (David, Nerudová 2008). All change of the national regulations of the value added tax of the individual European Union member countries should aim to meet the generally recognized principles of taxation, particularly the principle of efficiency, administrative simplicity, flexibility, neutrality and justice (David 2007). The aim of these efforts is to improve the functioning of the Single Market (Široký 2007).

Value added tax as the only acceptable form of indirect taxation replacing multi-stage cumulative systems of turnover taxes was established in the EU member states (Nerudová 2005). Harmonization of the tax base, which is used to the assessment of the tax, was largely achieved according to the current directives. The procedures during the taxation of goods during export, import and intra-communitarian fulfilments were also unified. The aim of the European Commission is to carry out the modernization of the value added tax, to simplify it, to ensure the uniform application and to improve the administrative cooperation. Also from these objectives, it is clear that the application and regulation of the value added tax are not yet uniform in the individual EU member countries. Very often, there is a violation of the principle of fiscal neutrality, particularly in the newer member countries, where despite the existing degree of the legislative harmonization, there are unequal conditions of the economic competition.

Differences of the individual national regulations of the value added tax are still evident in many ways, including in the terms of application of the self assessment system of the value added tax by the recipient of the service compared to accounting of the service including value added tax by a provider of the service, even if the provider of service from the EU member state shall have a permanent establishment in other member state of the customer, but this establishment is not involved in the provision of services, as well as the inclusion of services within the so-called extended guarantee to the taxable or exempt fulfilments, when the subject provides the technical support and assistance to its customers, for example in the case of a failure of an agricultural machine, which the provider had delivered to a subject in other member state. Common characteristics of v individual differences in the given field can be monitored especially in the newer EU member states. These are the current issues affecting not only businesses, whose certain part is here linked from the theoretical and practical aspects, but also other aspects which are included in other author's texts.

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MATERIAL AND METHODS

In addition to the identification and description of how to use scientific methods in this work, it is also necessary at this point to identify and describe the principles of functioning of the value added tax, to identify its characteristics and put it in the context of the given issue.

The empirical research of this problem was used during the elaboration of this theme in the individual EU countries. The method of analysis is applied in identifying the characteristics of the studied phenomena, the method of synthesis of the text to the formulation of constructions of uniting nature in the final parts. It was also necessary to use the methods of description to describe the current state of the

problem and other facts and events so that the essential connections can be created on the basis of the elaboration and evaluation of the relevant data. Among other things, it also used the methods of induction and deduction, the application of which allowed to generalize the found facts and to formulate the general valid principles, including the supposed consequences.

Value added tax is an indirect tax. The tax is imposed on the flow quantity, namely on the added value. Value added tax is a tax in rem set ad valorem. Tax in rem is paid regardless of the ability of the taxpayer to pay and tax ad valorem is determined according to the price of the taxed base. Its amount is determined from the tax base in monetary units, usually by a percentage (Široký 2003). The VAT is collected at each stage of economic activity from the value which was added in its framework. However, it is not a part of the costs – with the exception of costs of the final consumer. This tax is directly proportional to the price of a product or service because it is calculated as its percentage part.

The VAT is calculated from the current price of the product, but is reduced by the amount that was set from the same title from the previous transaction for each transaction in the process of production or services. Therefore, it is paid only from the real value added in that stage. The final consumer then pays the resulting amount of tax. The person who sells the product (or provide the service) to consumers is considered to be a taxpayer, because the value added tax is included in the consumer price.

Each state of the European Union has its own individual tax structure, including the proportion of direct and indirect taxation. The opinion that it is preferable to transfer the tax burden from income to consumption – the value added tax has been growing in the EU member states since mid-80th of the last century. However, the indirect taxation has also its weaknesses.

Especially the low predisposition of indirect taxes to frauds, which is given by the mechanism of determining the tax liability of individual subjects, is considered to be the most common arguments of the preference of taxation of consumption over the taxation of income. Value added tax is transparent in the term of possibility to set the tax burden of the product at any stage of its production. The weak resistance of this tax against evasions, when the claim on tax deduction on export is illegally used, is shown in some countries (Kubátová 2003).

The value added tax meets the basic requirement of the tax system – it is neutral. It allows excluding the production inputs during the taxation of consumption, it does not favour products with a low number of degrees of processing and thus does not contribute to the pressure on vertical integration as turnover taxes (Široký 2003). Only the part of the value that was added to the product or service shall be burdened by the value added tax. However, double taxation still occurs in some cases. Most of the services are more effectively taxed by the value added tax compared to the turnover tax. It is also beneficial in the terms of international trade because its mechanism enables not to tax export and thus remove the existing distortions. This tax, unlike the direct progressive taxation, does not cause any distortions on the labour market, does not affect directly the amount of savings and is less demanding for the necessary administration. There should also be noted the reliability of the incomes of value added tax for the state.

Negative characteristics of the value added tax are associated especially with the process of its implementation when there are real fears of the increase in inflation, of administrative and incurred costs resulting from taxation. Another negative feature of the value added tax is the regressive action and the creation of distortions. The regressive impact regarding the incomes of taxpayers has primarily one rate value added tax, because the tendency for consumption with the increase of income is falling. A more reasonable taxation of consumption while maintaining the principle of the ability to pay therefore requires differentiated rates.

The value added tax has the best characteristics necessary for the maintenance of neutrality in international trade, and therefore it has been the only acceptable general excise tax since 1997 in the EU countries. Harmonization of the value added tax in the EU results from the Sixth Council Directive No. 77/388/EEC of May 17, 1977 on the harmonization of the laws of the Member States relating to the turnover taxes – the common system of value added tax: uniform basis of assessment. Another important harmonization step is the Council Directive No. 2006/112/EC of November 28, 2006 on the common system of value added tax. This directive is often called the "Recast", because it is mainly re-ordering of the Sixth Council Directive No. 77/388/EEC of May 17, 1977 on the harmonization of the laws of the Member States relating to the turnover taxes – the common system of value added tax: uniform basis of assessment.

RESULTS AND DISCUSSION

Many problematic issues in the context of harmonization of the value added tax in the EU countries

can be found in the field of the provision of service mainly with regard of their variability, the rapid development and the possibilities resulting from it. The fact that during the provision of the service, there is a possibility of the self-assessment of value added tax by the recipient of the service, compared to the accounting of the services including value added tax by the provider of the this service brings uncertainties (Figure 1).

The provider of service is in the given situation registered for the value added tax in both the member states, namely in his/her member state, as well as in the country of the customer. The options of applying the value added tax, specifically charging the value added tax, or self assessment by the recipient of the service, as well as the application of the rules "Force of attraction" are questionable in the EU states in this situation.

The situation can be further modified. In practice, it is quite probable that the provider of service from the EU member state shall have a permanent establishment in the member state of the customer. This establishment, however, need not be necessarily involved in providing the service (Figure 2).

Again, it is necessary to solve the issue of choice of the application of value added tax, specifically charging the value added tax, or self-assessment by the recipient of the service, the application of the rules "Force of attraction", as well as the possibility of application of the reverse charge mechanism. It is also necessary to solve the differences in the treatment of the so-called services, "9-2-e", therefore, the services introduced in the Article 56 of the Recast. Specifically, there are transfers or assignments of copyrights, patents, licenses, trademarks or similar rights, advertising services, consulting, engineering, consulting, legal, accounting or other similar services, as well as data processing and provision of information, commitments to refrain totally or part of the execution of the professional activity here introduced or the execution, banking, financial and insurance activities including funding, provision of workers, hiring out of the movable tangible property (with the exception of all means of transport), granting access to the grid of the natural gas and electricity, transport or the transmission through this system or the provision of other directly related services , telecommunications services, radio and television broadcasting services, electronically supplied services, an intermediary acting on behalf and on behalf of third parties, in the case of the provision of service already mentioned.

In the application of the value added tax, the subjects in the EU countries meets uncertainties regarding the classification of services under the extended guarantee into the taxable or exempt fulfilments. The subject therefore provides to its customer the technical support and assistance in the case of failures of an agricultural machine, which the provider had delivered to a subject in other Member State (Figure 3).

In such situations, the possibility of differences in the individual EU countries, which is actually the fundamental fact limiting the conditions for free trade

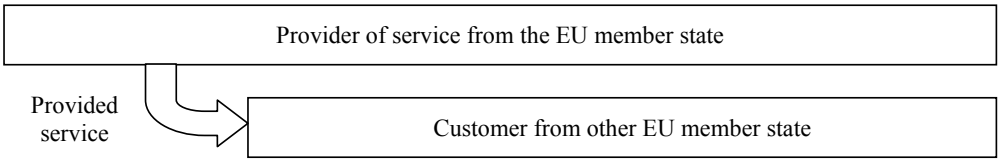

Figure 1. Self-assessed services provided in the EU state

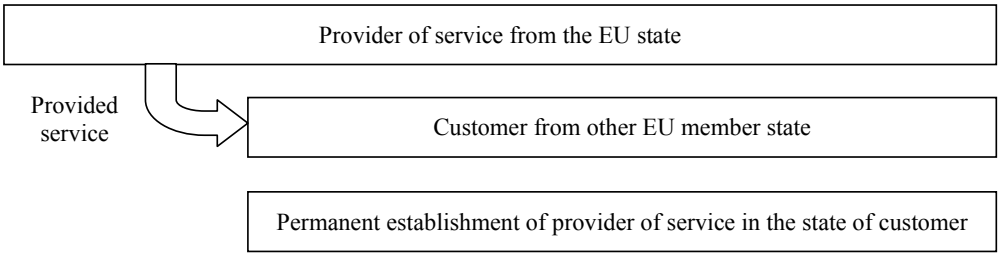

Figure 2. Self-assessed services provided in the EU state without involving the existing permanent establishment

within the European Union and must therefore be urgently solved, should be taken into account. The solution must first consist of a thorough analysis of the current situation in the EU member countries. There is also a need to formulate the proposals for appropriate regulations of the issue to select the appropriate one. Consequently, it is necessary to make the implementation of regulation through the issuing of the relevant directive. Monitoring of the application of the regulation in the EU countries on the basis of the feedback to carry out any further changes is also considered to be a necessity.

Three former East bloc countries, namely the Czech Republic, Slovakia and Hungary and one traditional countries of the European Union – Great Britain – were selected to examine this issue as a part of this text. First look at the situation of the service provider in Hungary registered for VAT in Hungary and in the Czech Republic, which provides its services to subject from the Czech Republic (Figure 4).

Czech law on value added tax determines for the service provider and recipient of the service duty to pay the Czech value added tax. There is not an established rule, which stipulates the duty to pay the Czech value added tax exclusively by the service provider. In practice, the VAT number which is used during the provision of a service is relevant in the Czech Republic. If it is the Czech VAT, it is not possible to use the reverse charge mechanism and the provider of service must pay the Czech value added tax. The service provider is entitled to deduct the value added tax, if it is granted to him/her. In the case of the application of the Hungarian VAT number, then it is the customer who pays the Czech value added tax by the self-assessment system. The terms of use of each system is not specifically regulated in the Czech legislation. The situation is only based on the interpretation, which states that the decisive factor is the VAT number used in the tax document (Figure 5).

In the case of providing services by a provider from Slovakia, we consider the person from Hungary to be the recipient of the service. It is not possible to apply the rule of the "Force of attraction" within the Hungarian regulation of the value added tax. The conditions for the application of the value added tax, respectively whether the Hungarian value added tax is or is not charged, determines the used VAT number. When using the Slovak VAT number, the reverse charge mechanism shall be applied in Hungary , and when using the Hungarian VAT number, it is necessary to appliy the Hungarian value added tax. However, in practice the conflict with the tax authorities may occur in Hungary, because they may prefer the prin-

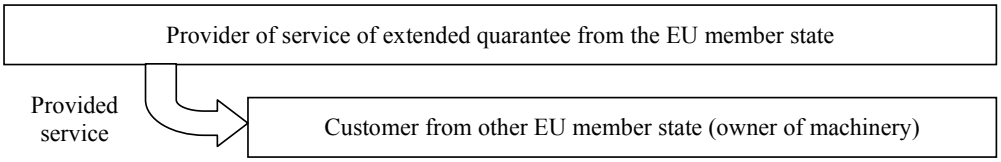

Figure 3. Provision of extended guarantee in the EU state

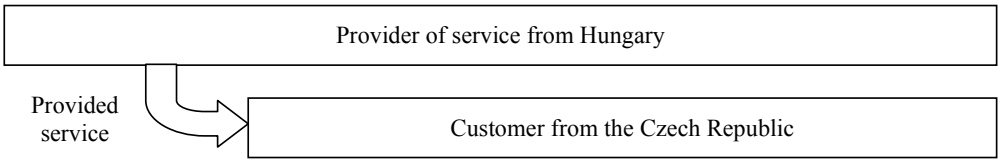

Figure 4. Self-assesses services provided in Czech Republic

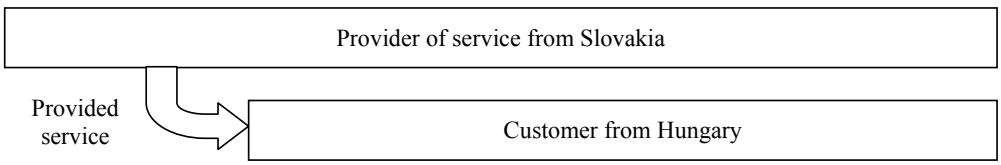

Figure 5. Self-assessed services provided in Hungary

ciple of the priority of substance over the form and give priority to the fact over the interpretation of the transaction (Figure 6).

If the service is provided by a subject from Great Britain to a recipient of the service from Slovakia, it is necessary to follow the Slovak law on the value added tax. A person from Great Britain registered for the value added tax providing a service to Slovakia is obliged to apply the value added tax. The taxpayer is obliged to pay a tax for services which have been provided to him by a foreign person. Self-assessment system should be taken into account in accordance with the Slovak Finance Directorate for the services listed in the Article 56 of Recast even if the provider is registered for the value added tax (Figure 7).

The situation when the provider of service is from the Czech Republic and the recipient of the service is from Great Britain is very close to the previous situation. For services under the Article 56 of Recast the British law requires that the British recipient of the service pay the value added tax by self assessment system if the service provider is established in the Czech Republic or in any other country of the European Union. The service provider from the Czech Republic may become liable to pay the British value added tax under the following conditions. The service provider from the Czech Republic must have a seat in the UK, defined more as human and technical resources than the formal seat. The given seat must be closely linked with the provision of the service. If a service provider from the Czech Republic chooses to apply the local value added tax, so it is unlikely that the procedure would be an attack by the British tax authorities. This can, however, be applied only to services under the Article 56 of the Recast. Other services received in the UK may be subject to the self assessment for the recipients, but only if the provider is not registered for VAT in the UK.

Further, we consider how the situation shall look like if the service provider from the EU member state shall have a permanent establishment in other member state of the customer and this establishment shall not be involved in the provision of services. Again, it is necessary to solve the issue of choice of the application of the value added tax, specifically charging the value added tax, or the self-assessment by a recipient of the service, the application of the rules "Force of attraction", as well as the possibility of the application of the reverse charge mechanism. It is also necessary to solve the differences in the treatment with serv-

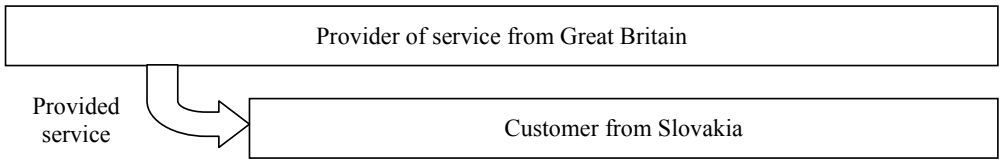

Figure 6. Self-assessed services provided in Slovakia

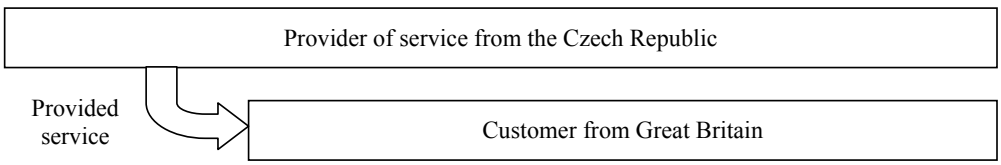

Figure 7. Self-assessed services provided in Great Britain

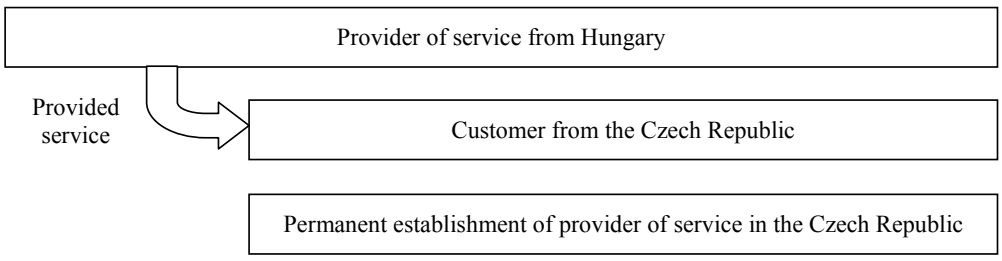

Figure 8. Self-assessed services provided in the Czech Republic without involving the existing establishment

ices "9-2-e", therefore the services introduced in the Article 56 of the Recast (Figure 8).

The approach to the themes presented in the case of providing the service by a subject from Hungary to a customer from the Czech Republic with the existence of the establishment of the provider in the Czech Republic is similar to that when the provider does not have establishment in the Czech Republic. The Czech Republic cannot be considered a place of the fulfilment of service for the services "9-2-e" of Article 56 of the Recast, because of the existence of the permanent establishment of service of a provider from Hungary to a customer to Czech Republic. Hungary is the place of the fulfilment. If the service is subject to zero taxation, it must be documented enough to the financial authorities that the establishment of the service provider in the Czech Republic is not involved in the provision of services to a customer in the Czech Republic. Otherwise, the subject from Hungary shall apply the value added tax through the registration for the value added tax in the Czech Republic. The regulation of the value added tax in this field in the Czech Republic therefore corresponds to the Directive No. 77/388/EEC, respective the Recast, in which the states that the taxpayer, who has an establishment in the territory of the EU member state where the value added tax is payable, is considered to be the taxpayer, who is not established in that State if the following conditions are fulfilled. The given subject is delivering goods or services in the territory of the EU member state and the establishment, which the provider of service has in the territory of this member state, does not participate in the provided fulfilment. Formally, the situation in the Czech Republic is in order, but in practice each case is judged individually, because confusions arise for example regarding the origin of the establishment (Figure 9).

If the subject from Slovakia provides a service to a customer from Hungary with the existence of the permanent establishment of a service provider in Hungary, then it is not possible to apply the self - assessment system. If the service provider from Slovakia has more establishments, then it is possible to use the rule of the "Force of attraction" when services should be connected with that permanent establishment, with which the provision of service is the most associated. If the provider of a service from the Hungarian establishment is not involved in the provision of the services in any way, it is possible to use the mechanism of self- assessment. This fact must be proved very consistently. The long-term lack regarding the absence of a sufficiently clear definition of a permanent establishment has been at least partially solved in Hungary since 2008. Currently, a permanent establishment is the place on the territory of Hungary, which is founded for the purpose of carrying out economic activities for a longer period of time, if the other conditions for the realization of economic activities, including the representative offices are fulfilled. It is therefore also clear that in this case, it is not possible to apply the reverse charge mechanism and the member state in which

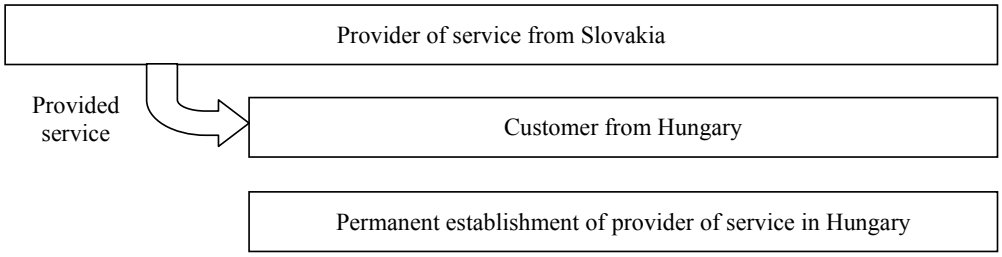

Figure 9. Self-assessed service provided in Hungary without involving existing permanent establishment

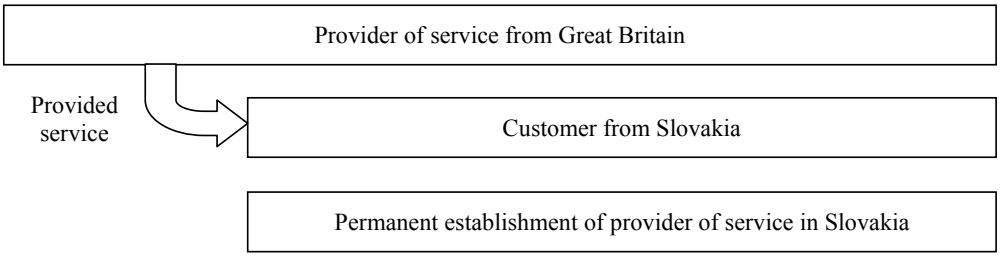

Figure 10. Self-assessed services provided in Slovakia without involving existing permanent establishment

the service provider has its seat is the place of the fulfilment (Figure 10).

In the case that the service is provided by a subject from Great Britain to the customer in Slovakia, then the person who has an establishment in the Slovakia is considered to be a person with the seat in the Slovak Republic. The application of reverse charge mechanism is not therefore possible. In the application of the value added tax in Slovakia, it is possible to use the rule of the "Force of attraction, which is here fully applied regardless of whether the service is provided by the subject from the United Kingdom or by the establishment in the Slovak Republic (Figure 11).

During the provision of service from the Czech Republic to the costumer in the UK with the existence of not involved establishment of the service provider in the UK, it is again necessary to distinguish the services in accordance with the Article 56 of Recast and other services. Within the services under the Article 56 of the Recast, the British law requires that the recipient of the service pays the value added tax through the mechanism of self-assessment because the establishment is closely linked to the provision of these services. The territory outside the Great Britain is the place of the fulfilment. If a provider chooses to apply the British value added tax, so it cannot be expected that the British tax authorities argue anything. Other services, excluding the services under the Article 56 of the Recast adopted in the United Kingdom may be a subject of self assessment for the recipient, but only if the provider is not registered for VAT in the UK.

The field of provision of service under the extended guarantee is another field in which there are uncertainties, this time regarding the inclusion in the exempt or taxable fulfilments. The subject from the EU member state provides to its customers from other member states the technical support and assistance in connection with the supplied equipment, such as an agricultural machine. The service is provided either by the service provider or by a third party. The actual payment of service of the technical support and assistance is paid by the customer either in advance or by the lump sum for the specified period (Figure 12).

If the provider of the extended guarantee to a customer in Hungary is from the Czech Republic, it is necessary to distinguish three cases. The extended guarantee may be granted by the seller of the agricultural machinery along with this machine, or extended guarantee is provided by a service company which is able to drive and influence the risks associated with any disorder of machines, or the extended guarantee is provided by the service company that cannot manage and influence the risks associated with malfunctioning of the machine. In all alternatives, however, there are taxable fulfilments, not free insurance services.

The situation in the Czech Republic is affected by the judgment of the Court of Justice in the case C-13/06 of December, 2006, the European Commission against the Hellenic Republic, which covered the referred field of the value added tax. On this basis, there was confirmed, within the framework of the Coordinating Committee of the Ministry of Finance, the treatment of the roadside assistance services from the perspective of the VAT. The Ministry of Finance indicated that the assistance services shall be exempt from the VAT if the service is provided as an insurance service, for example when the provision

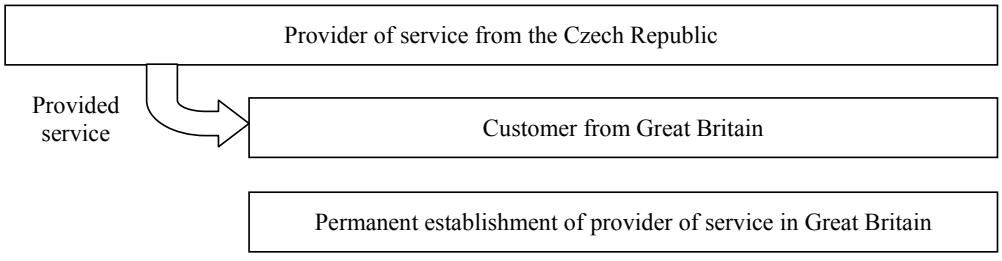

Figure 11. Self-assessed services provided in Great Britain without involving existing establishment

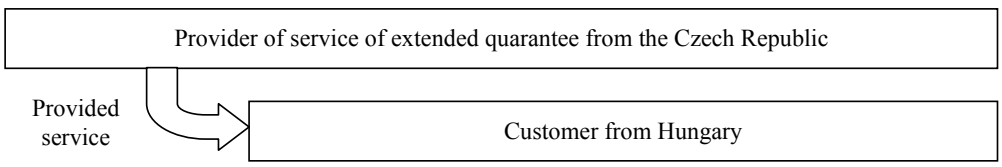

Figure 12. Provision of extended guarantee in Hungary

of the assistance service is linked to the previous payment which covers the relevant risks referred in the contract. The exemption of the VAT is not applied to the other assistance services provided under the contracts that are not possible to consider the insurance services. The VAT exemption should not be affected in the case if the service provider is not a person who is registered as an insurance institution at the relevant regulator. If the extended guarantee is provided by a service company, which is able to drive and influence the risks associated with any disorder of machine, the extended guarantee does not represent the exempt insurance service because the risks are managed by the service provider. If the extended guarantee is provided by the service company that cannot manage and influence the risks associated with malfunctioning of the machine, then there is relevant the fact that in the First Council Directive of July 24, 1973 on the coordination of laws, the regulations and administrative provisions related to the taking - up and pursuit of the business of direct insurance other than life assurance (73/239/EEC), no service help and assistance in the case of failure of the machine are listed. On the other hand, it is necessary to view objectively the same fulfilments in the same way and so obviously a contradiction arises in solving the given situation (Figure 13).

The time or rather the date of provision is in the terms of the value added tax a significant factor while providing the extended guarantee by the subject from Hungary to the customer in Slovakia. When the extended guarantee is provided by the seller at the time of the sale of a machine, so it is not considered to be an individual fulfilment, but to be a secondary fulfilment to sale of the machine, which is taxable fulfilment. If the extended guarantee is provided by the seller after the fulfilment, then after the sale of the machine, then it is an individual fulfilment unless the extended guarantee does not form a part of the original fulfilment. Provided that the extended guarantee is provided by the third party, it is the individual fulfilment and its taxability or the exemption depends on the predisposition of the service provider in terms of the value added tax. Services provided for example by the insurance company shall be exempt from the value added tax. Hungarian financial institutions in general do not consider the provision of the extended guarantee to be an insurance service, which would be exempt from the value added tax, although the earlier mentioned rule is dominant (Figure 14).

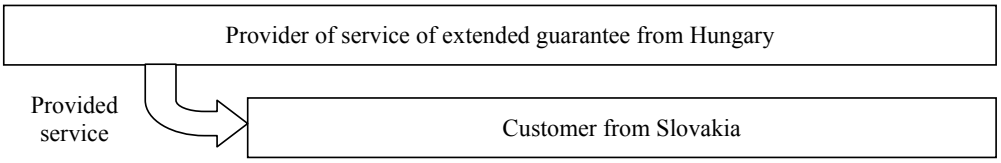

Figure 13. Provision of extended guarantee in Slovakia

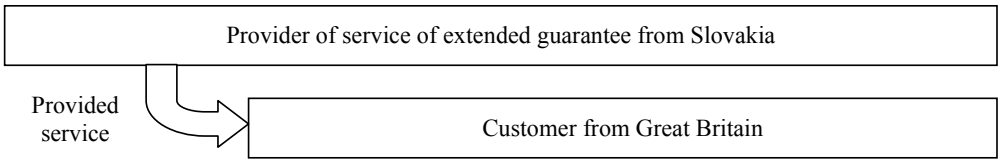

Figure 14. Provision of extended guarantee in Great Britain

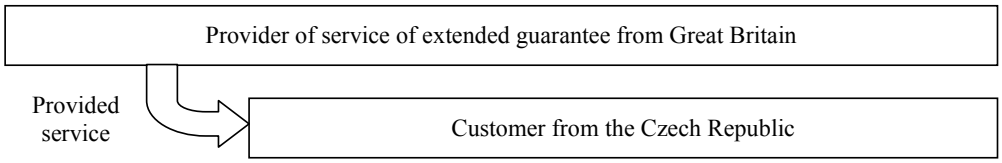

Figure 15. Provision of extended guarantee in the Czech Republic

The provision of the extended guarantee by a subject from Slovakia to a customer from Great Britain is in the Slovak considered to be a taxable fulfilment, both in the case of the provision of the extended guarantee by a seller of agricultural machinery along with this machine, and also during the provision of the extended guarantee by a service company, which is able to drive and influence risks associated with any failure of the machine. The same result is when providing the extended guarantee by a service companies that cannot manage and influence the risks associated with any malfunctioning of machine. This practical process is not here legislatively modified in any way; it is therefore managed by a prerequisite that the provision of the extended guarantee is more a kind of maintenance than a form of insurance (Figure 15).

Value added tax from the provision of the extended guarantee by a subject from Great Britain to a customer to the Czech Republic at the time of the purchase, respectively the sale of a machine considered to be related to the sale of goods in the Great Britain. If the machine did not left the territory of the Great Britain, then the standard rate of the value added tax applied. In this model case, when the machine is moving in the Czech Republic, is the transaction exempt from the value added tax. If the extended guarantee is purchased separately, then the application of the value added tax is not clearly regulated by the British law. In the situation where it is known and it is evident that the machine has been moved to the Czech Republic, the provision of the extended guarantee is deemed to be the work on the goods and therefore is not subject to the British value added tax. Taxation should be introduced in a place where the goods are located. But if there was moving of the machine in more EU countries, no corresponding provision on this situation can be found in the British law. At this point, it is possible to assume that the British value added tax shall be payable in advance according to the location of the provider of the extended guarantee. British financial institutions are willing to return overpayments of the British value added tax, if the provider of the extended guarantee proofs the place of the fulfilment outside the United Kingdom and the payment of the local value added tax. The provision of the extended guarantee by a licensed insurance company is considered to be exempt from the fulfilment in any case.

CONCLUSION

In the EU countries, it is necessary to adopt the measures necessary to achieve a greater degree of harmonization in the field of the value added tax, which shall contribute to the reduction of the barriers of free trade and its further development in the European Union market. First, it is necessary to define the problematic points in the various EU countries and the following points on the basis of the general primary debate resulting in the general consensus appropriately regulates through the relevant directives. These rules already exist in some form and lead to the implementation of regulations to the national value added tax systems in the EU member states. Series of regulations should be made in the frame of the provision of services. The provision of self- assessed services provided by a person registered for the VAT, especially in the case that the provider from other EU member state has an establishment in the other member state of customer, but it is not involved in the provision of the service is insufficiently treated according to the previous study in the EU countries. Another problematic factor is the provision of the extended guarantee to other EU countries.

During the provision of services by a person registered for the value added tax the situation without the existence of the establishment in the country of the customer is not simple, but at least relatively clear. The decisive factor in the Czech Republic, Hungary and the Slovak depends on the used VAT number. When there is used the VAT number from the state of the recipient, so the value added tax is paid by the provider. If there is a foreign VAT number, then the value added tax is paid by a customer by the self assessment system. In the case of providing services to the Slovak recipient under the Article 56 of the Recast, it is possible to use the self assessment system even if the provider is registered for the value added tax in the Slovak Republic. In the UK, there are strictly distinguished services in accordance with the Article 56 of the Recast and other services. The self-assessment system is used for services under the Article 56 of the Recast and the service provider is a person liable to the VAT for other services. A problem are rather the inconsistencies of the national regulations, not the application of rules of the "Force of attraction" in the Czech Republic and in Hungary. The issue is not treated legislatively, but only by the interpretation in the Czech Republic.

More absences can be found in the national regulations, if we assume that the provider of service has an establishment in the country of the customer, which is not involved in the provision of services. Completely unclear are these rules in Hungary, where even an evident conflict occurs. First, it is possible to use here a self assessment system only without the existence of the establishment in Hungary and on the other hand,

it is possible to apply the self- assessment in practice. Rules of the "Force of attraction" are applied during the existence of more establishments. In Slovakia, the rules of the "Force of attraction" are fully applied even in the case of the existence of an establishment and the participation of the establishment in provision of services and the self- assessment system is not possible here. Classification of the provided service is again important in the Great Britain. The self-assessment system is used for services under the Article 56 of the Recast and also for other services, but only if the provider is not registered for the VAT in the UK. It should be noted here that the rules in most other European Union countries are similarly set. The situation in the Czech Republic is absurd. Although the regulation totally corresponds, under the Ministry of Finance, to the Sixth Directive, no taxation or double taxation occurs and the practice is different from the procedures applied in other European Union countries. The situation in the Czech Republic in alternative with the establishment differs during the provision of services under the Article 56 of the Recast. Here, the existence of the establishment makes impossible the application of the service with the place of fulfilment in the Czech Republic. During the proof of not involved establishment in provision of the service, zero taxation shall be applied. Persistent weaknesses of the rules of the creation of the establishment are in many contexts in the Czech Republic but also in other European Union countries.

The provision of the extended guarantee can be provided by the seller of agricultural machinery along with this machine, or an extended guarantee is provided by the service company which is able to drive and influence the risks associated with any disorder of the machine, or the extended guarantee is provided by the service company that cannot manage and affect the risks associated with any machine are malfunctioning. These are taxable fulfilments not exempt from insurance services in all of these options and in all the countries. The situation thus corresponds to the judgment of the Court in the case C-13/06 of December 7, 2006 of the European Commission against the Hellenic Republic, which covered the field of the value added tax. But still fundamental absences can be found in the Czech Republic, Hungary, Great Britain and the Slovakia. In the Czech Republic, there is a contradiction with the fact that objectively the same fulfilment should be judged in the same way and the given services are to some extent objectively the same as the insurance services, especially in the third option. The situation is similar in Hungary, which also depends on the provider's position in terms of the value added tax and also it depends on the procedure for the provision of the extended guarantee. It depends again on the position of the extended guarantee provider in the UK. If it is a licensed insurance company, then this service shall be exempt from the value added tax, otherwise it shall be a taxable fulfilment.

Slovakia does not have any rules in this field, but in practice the provision of the extended guarantee is considered to be more the kind of maintenance. Quite outstanding is the situation in connection with the provision of the guarantee and the application of the value added tax, when the agricultural machine to which the extended guarantee is associated, is not constantly placed in one place in one EU member state.

On the basis of empirical research, the identified weaknesses and the formulated recommendations, it is necessary to make a revision mainly at the level of the national regulations, as well as the regulations within the European Union in this field. Subsequently, these rules shall be applied in practice. However, the whole anabasis cannot finish at that. Re-obtaining a feedback from the countries applying the relevant regulations, evaluating them and, where appropriate, discussing and editing the identified problematic passages again is also essential.

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