

Kazalo

Dr. Marjan Odar

Uvodnik

Editorial

Mojca Bartol Lesar

Stalna poslovna enota in DDV

Fixed establishment in VAT taxation

Mag. Rosana Dražnik

Pravila pri obračunavanju DDV-ja pri uvozu blaga

VAT at import procedures

Mag. Brigita Franc

Transferne cene v povezavi s prestrukturiranjem družb v skupini povezanih oseb

*Transfer prices in connection with the restructuring of companies in a group
of related parties*

Jure Mercina

Davčni vidiki nagrajevanja zaposlenih v obliki delnic oz. delniških opcij

Tax aspects of granting employees stock units or stock option

Mag. Blaž Pate

Problematika uveljavljanja povračil stroškov v postopkih davčnega nadzora

Issue of cost reimbursement in tax inspection procedure

Mag. Boris Tuma

Zadovoljstvo uporabnikov poročil o oceni vrednosti nepremičnin – anketa

Survey – User Satisfaction of Real Estate Valuation Reports

Iz prakse za prakso

Ovrednotenje učinka nepopravljenih navedb preteklih obdobjij na računovodske izkaze

Pregled sprememb v novih MSOV-jih, ki začnejo veljati 31. januarja 2022

Razvoj kompetenc notranjega revizorja

Pokrivanje izgube v pogodbenem koncernu

Evidentiranje vračil pomoči ob covidu-19

Oprostitev davčnega odtegljaja od izplačil dividend in dohodkov, ki so podobni dividendam

Novosti in obvestila

Novi nazivi

Mojca Bartol Lesar

Stalna poslovna enota in DDV

Fixed establishment in VAT taxation

POVZETEK • Pojem stalne poslovne enote se pojavlja tako v zakonodaji o davku na dodano vrednost kot v zakonodaji s področja davka od dohodkov pravnih oseb in je upošteven, kadar davčni zavezanci opravljajo posle v drugih državah. Vendar pa obeh konceptov ne gre enačiti. Za namene obdavčitve z DDV-jem je stalna poslovna enota prisotna takrat, ko ima zavezanc v drugi državi stalne človeške in tehnične vire, pri čemer je njen obstoj relevanten v zvezi z določbami o kraju obdavčitve storitev in kraju dobave elektrike in plina po distribucijskih sistemih, pa tudi s pravili v zvezi s plačnikom davka in vračilom davka tujim zavezancem. Gre torej za upoštevanje pri posamezni transakciji, ki jo je treba ustrezno obdavčiti z DDV-jem.

Ključne besede • stalna poslovna enota, DDV, kraj obdavčitve, vračilo DDV-ja

SUMMARY • The concept of a fixed establishment appears in both value added tax and corporate tax legislation and is relevant in cases where taxpayers do business in other countries. However, the two concepts are not to be equated. For VAT purposes, a fixed establishment is present when the taxable person has permanent human and technical resources in another country, and its existence is relevant in relation to the provisions in the place of taxation of services and the place of supply of electricity and gas through distribution systems. It is important also in relation to the rules regarding the liability to pay the tax and VAT refund. It is therefore relevant in the context of any individual transaction, which needs to be properly taxed with VAT.

Key words • fixed establishment, VAT, place of supply, VAT refund

Mag. Rosana Dražnik

Pravila pri obračunavanju DDV-ja pri uvozu blaga

VAT at import procedures

Povzetek • Uvozni postopki so primarno urejeni s carinskimi predpisi, zato je ureditev DDV-ja tesno povezana s carinsko ureditvijo. Med njima je tudi nekaj pomembnih razlik, ki izhajajo iz same osnove carinske zakonodaje in zakonodaje o DDV-ju. Čeprav je večini najbolj domač uvozni postopek, pri katerem se blago sprosti v prosti promet in pri tem nastane tudi obveznost za plačilo vseh uvoznih dajatev, poznamo še več drugih carinskih postopkov oziroma rab, pri katerih je treba biti pozoren na postopkovna pravila, da ne bi izgubili ugodnosti, ki nam jih omogočajo. V članku so predstavljeni uvozni postopki, ki se pogosto pojavljajo v praksi, in na kaj je treba pri njih paziti. Čeprav je osnova uvoznega postopka vezana na carinske predpise, je v članku poudaren predvsem na posledicah DDV-ja oziroma pravilih, ki jih je treba pri tem upoštevati.

Ključne besede • DDV, uvoz, carinski postopek 42 00, plačnik DDV-ja pri uvozu, postopki oplemenitenja, carinsko skladiščenje

SUMMARY • Import of goods from third countries or third territories is primarily regulated with custom legislation. In this regard, VAT legislation is closely related to customs rules, although there are important differences arising from custom and VAT general rules. For the majority of people, the most common customs procedure is when goods are custom cleared and released for free circulation in the EU. In such case, all import duties are paid at custom clearance. However, there are other procedures, where we must take good care of documents and arrangements, not to lose possible benefits arising from those procedures. In this article, we will present some of import procedures that are most common in practice, and point out basic issues that are to look out for. Although there is no import procedure if custom authorities are not involved, this article focuses mainly on the VAT consequences and the rules that must be followed in import procedures.

Key words • VAT, import, custom procedure 42 00, person liable for VAT at import, inward processing procedure, custom warehousing

Mag. Brigita Franc

Transferne cene v povezavi s prestrukturiranjem družb v skupini povezanih oseb

Transfer prices in connection with the restructuring of companies in a group of related parties

POVZETEK • Prestrukturiranje poslovanja je odziv mednarodnih korporacij na globalne konkurenčne pritiske in spreminjajoče se povpraševanje na trgu. Na splošno prestrukturiranje poslovanja narekujejo zunanji in notranji dejavniki. Najznačilnejša oblika poslovnega prestrukturiranja je krčenje ali prenehanje proizvodnje v eni državi in selitev v drugo. Poleg tega bi mednarodne korporacije lahko strukturirale svoje poslovanje tako, da bi odvzele funkcije (npr. proizvodnjo, distribucijo), vredna opredmetena in neopredmetena sredstva ter tveganja, ki so jih prej opravljala lokalna podjetja, ter jih prenesle na centralizirane in specializirane regionalne ali globalne enote.

Davki niso glavni motivator za čezmejno prestrukturiranje. Kljub temu se je v okviru strukturiranja poslovanja v preteklih letih močno povečala ozaveščenost o davkih, predvsem z vidika transfernih cen. Eden od razlogov so razlike v mednarodnih davčnih sistemih. Te razlike bi lahko povzročile neskladja zaradi dejstva, da so davčni organi pogosto zainteresirani samo za povečanje svojih davčnih prihodkov, ne da bi upoštevali, da davčni organi v drugih jurisdikcijah morda nimajo istih pogledov na obdavčitev. Različna in izolirana obravnava predmeta obdavčitve bi lahko privedla do dvajnega obdavčevanja, ki bi ga bilo mogoče – če sploh – rešiti le z dolgotrajnim pogajanjem ali arbitražnim postopkom med zavezancem in davčnimi organi.

Ključne besede • poslovno prestrukturiranje, prenos funkcij, prenos tveganj, prenos dejavnosti, potencial za ustvarjanje dobička, prihranki zaradi lokacije, transferne cene, OECD, Smernice OECD za transferne cene

SUMMARY • Business restructurings are a reaction to global competitive pressures and changing market demand. In general, there are often external and internal factors, which underlie the need for an MNE to change or restructure its business. A classic scenario for business restructuring is the reduction or elimination of production capacity in one country and its shift to another country. Furthermore, an MNE could structure its business by “stripping out” functions (e.g. production, distribution), tangible and intangible assets and risks, which were previously integrated in local operations, and transferring them to more centralized and special-

ized regional or global units.

Taxes are not the predominant motivator for cross-border business restructurings. Nevertheless, the awareness of taxes, and transfer prices especially, increased significantly in the context of business structuring in past years. One reason is the differences in international tax systems. These differences could lead to discrepancies because tax authorities are often interested only in increasing their own tax revenue without taking into consideration that tax authorities in other jurisdictions may not apply the same interpretation. The different and isolated treatment of the tax substrate could lead to double taxation, which could, if at all, be only resolved through a lengthy negotiation or arbitration process between the taxpayer and the tax authorities.

Key words • *business restructuring, transfer of functions, reallocation of risk, transfer of activity, profit potential, location savings, transfer pricing, OECD, OECD Transfer Pricing Guidelines*

Jure Mercina

Davčni vidiki nagrajevanja zaposlenih v obliki delnic oz. delniških opcij

Tax aspects of granting employees stock units or stock option

POVZETEK • Nagrajevanje zaposlenih z delnicami in delniškimi opcijami delodajalca po-staja vse bolj priljubljeno, saj ima nekaj dokazano pozitivnih učinkov. Delodajalci ponujajo različne vrste in načine nagrajevanja, najpogosteje v mednarodnem prostoru poznane kratice za tovrstno nagrajevanje pa so RSU, ESPP in ISO. Dodeljene delnice oz. delniške opcije so pri zaposlenih obdavčene kot dohodek iz delovnega razmerja, hkrati pa so tudi predmet prispevkov za socialno varnost. O dohodkih se FURS-u poroča na več načinov, in sicer glede na to, ali za posamezen dohodek obstaja plačnik davka v Sloveniji ali ne. Odprto vprašanje ostaja davčna obravnava prakse »sell to cover«.

Ključne besede • delnice, delniške opcije, dohodnina, boniteta, prispevki za socialno varnost

SUMMARY • Rewarding employees with stocks and stock options is becoming increasingly popular as it has some proven positive effects. Employers offer different types of rewards, the most common internationally recognized abbreviations for such rewards are RSU, ESPP and ISO. Granted shares or stock options are taxed as employment income and are subject to compulsory social security contributions. With regard to income reporting, there are different possible procedures that depend mainly on whether or not there is a payer of tax in Slovenia for that specific income. Tax treatment of the so called "sell to cover" practice remains an open question.

Key words • stocks, stock options, income tax, benefit in kind, social security contributions

Mag. Blaž Pate

Problematika uveljavljanja povračil stroškov v postopkih davčnega nadzora

Issue of cost reimbursement in tax inspection procedure

POVZETEK • V prispevku obravnavamo večno problematiko povrnitve stroškov v davčnem postopku. Kljub specialni ureditvi v ZDavP-2 in splošni ureditvi v ZUP-u je v praksi še vedno možno različno razumevanje pravne ureditve, ali pa je ta tako pomajkljiva, da omogoča sporno prakso pri odločanju organov v davčnih postopkih o povrnitvi stroškov strankam postopkov. Še posebej je izpostavljena problematika odločanja o stroških v zvezi s pravnimi sredstvi.

Ključne besede • davčni postopek, davčno pravo, stroški davčnega postopka

SUMMARY • This Article deals with issues of costs reimbursement in tax procedures.

Notwithstanding special regulations in the Tax Procedure Act and general regulations in the Administrative Procedure Act, the legal regulation itself is still lacking and provides options for different interpretations, so that it enables disputable practices of financial authorities regarding the reimbursement of tax procedures costs to the clients. Special attention is paid to procedure costs reimbursement in relation to legal remedies.

Key words • tax procedure, tax law, tax procedure costs

Mag. Boris Tuma

Zadovoljstvo uporabnikov poročil o oceni vrednosti nepremičnin – anketa

Survey – User Satisfaction of Real Estate Valuation Reports

POVZETEK • Prispevek obravnava rezultate ankete o zadovoljstvu uporabnikov poročil o oceni vrednosti nepremičnin. Anketa je bila izvedena v sodelovanju s Slovenskim inštitutom za revizijo in družbo RE/MAX Commercial. K sodelovanju so bili povabljeni razni uporabniki poročil o oceni vrednosti: banke, revizorji, kupci in prodajalci nepremičnin, stečajni upravitelji ter drugi, ki pri svojem delu redno uporabljajo poročila o oceni vrednosti nepremičnin. Večina uporabnikov je s poročili zadovoljna, predvsem z uporabljenimi metodami, izračuni, razumljivostjo, obliko in sklepi poročil. Kritike pa se najpogosteje nanašajo na neodvisnost ocenjevalcev vrednosti in s tem povezan (pre)velik vpliv naročnika na ocenjevalca vrednosti ter (pre)velike razlike pri ocenah vrednosti iste nepremičnine. Za povprečnega uporabnika je najpomembnejši kratek rok izdelave ter da je ocena vrednosti skladna z njegovimi pričakovanji.

Ključne besede • ocenjevanje vrednosti nepremičnin, poročila o oceni vrednosti nepremičnin, zadovoljstvo uporabnikov, anketa

SUMMARY • The article discusses the results of the survey on user satisfaction of real estate valuation reports. The survey was conducted in cooperation with the Slovenian Institute of Auditors and RE/MAX Commercial. Various users of valuation reports were invited to participate: banks, auditors, buyers and sellers of real estate, bankruptcy trustees and others who regularly use real estate valuation reports in their work. Most users are satisfied with the reports, especially with the methods, calculations, comprehensibility, format and conclusions of the reports used. Criticisms most often refer to the independence of valuers and the related (too) large influence of the client on the valuer and (too) large differences in the valuations for the same property. For the average user, the most important is short delivery time of the report and that the values are in line with their expectations.

Key words • real estate valuations, real estate valuation report, user satisfaction, survey