

Sylvia JENČOVÁ
Marta LUKÁČOVÁ
Mária JUSKOVÁ

FRAUD INTRA-COMMUNITY TRANSACTIONS VAT AND NEGATIVE IMPACT ON THE STATE BUDGET

PODVODNÉ INTRAKOMUNITÁRNE TRANSAKČIE S DPH A ICH NEGATÍVNY DOPAD NA ŠTÁTNY ROZPOČET

Abstract: *The most frequent tax fraud with a negative impact on the state budget is the so-called carousel fraud, which is primarily performed in carrying out cross-border operations. Abroad, the type of tax evasion in question is referred to as the fraud of a missing trader, the so-called MTIC, consisting in the abuse of VAT rules in cross-border transactions within the EU. In the presented article, we analyze the most common possibilities of committing VAT fraud in cross-border trade, which is carried out within the European Community with quantifying the negative effects on the balance of the country's state budget.*

Key words: *intra - community transactions, cross - border trade, VAT, state budget.*

Kľúčové slová: intrakomunitárne transakcie, cezhraničné obchodovanie, DPH, štátny rozpočet.

JEL Classification: F39

Introduction

Value added tax is one of the main sources of government revenue, but the complicated way, how it works also makes it vulnerable to fraud. Before we buy any product as final customers, it goes through a distribution channel, for example in the form of manufacturers, distributors and traders. Although the entire VAT will be paid by the final consumer in the price of the product, it is gradually paid to the state by entrepreneurs on individual sections of the distribution channel (Jusková, Jenčová 2018).

The VAT Act regulates the registration of persons who become taxpayers. Registered taxpayers are obliged to pay tax to the state on their taxable transactions, which are object to tax and at the same time have the right to deduct tax, unless they carry out tax-exempt activities. It also regulates the registration of persons, who do not have the status of VAT payers, but are required to pay tax on the acquisition of goods from another Member State without the right to deduct tax or supply or acquire a service from another Member State and have not yet achieved turnover for VAT registration (Široký 2016).

Persons registered under the VAT Act are assigned a Slovak VAT identification number. Businesses carrying out taxable transactions in several Member States are assigned a VAT identification number in each Member State, if they are required to apply for registration. In terms of the VAT Act, the right to deduct tax arises from goods and services to the taxpayers on the date on which the tax becomes chargeable. The right to deduct tax arises only to taxpayers. The right to deduct tax also arises in the case of the payment of the tax to the customs authority upon importation of the goods. If the tax liability does not arise, there is no right to deduct tax. The tax becomes chargeable on the day the goods are delivered or the day the services are provided or the advance payment is received (Benko 2016).

The generally accepted technique of calculating the tax liability is based on the payment of the balance of value added tax, which arises as the difference between the tax paid in the invoices

of suppliers (pre-paid tax) and the total tax liability of the payer. The principle of VAT therefore consists in the registration in the relevant accounts of the value of the tax paid to the supplier and the value of the tax invoiced to his customers, and the difference between the balances of the two variables is entered in the tax return. Králik, Grúň, Balko (2001) present the basic scheme of taxation, which is based on the payment of the tax balance:

$$\begin{aligned} \text{Taxable turnover} \times \text{tax rate} &= \text{gross tax (output tax)} \\ \text{Gross tax (output tax)} - \text{pre-paid tax (input tax)} &= \text{net tax (tax liability)} \end{aligned}$$

If the value of the pre-paid tax exceeds the output tax, a negative balance arises and the taxpayer is entitled to a tax refund.

Intra - community trade

Intra-community trade is a supply of goods between value added tax payers, based on the principle that the trade is object to tax in the supplier's country, where it is exempt and the object of the tax is also in the state of the customer, where the obligation to pay the tax arises. The term intra-community trade refers to the supply or acquisition of goods or services between entities registered for VAT within EU countries (Sedliak 2016).

If a taxpayers supplies goods or services from the domestic to a customer, who is a VAT payer in another country within the EU, he issues an invoice without VAT. Another task of the supplier is to indicate the delivery in the recapitulative (summary) statement. The customer's task is to make self-taxation. The principle of the state of destination applies here - the business is taxed in the state of the customer (Rolick Consult 2018).

Conditions for tax exemption for intra-community supply of goods (Schultzová 2011):

- both the supplier and the customer are VAT payers,
- the customer orders the delivery of goods under VAT ID,
- it must be physically transported from domestic to another Member State,
- it must be a return delivery;
- an invoice must be issued for the delivery in accordance with the Value Added Tax Act.

VAT system for production-distribution chain with impact on the state budget

In Table 1 we present a classic example, all Slovak companies are VAT payers and in the production and distribution chain deduct input VAT paid from the purchase price. Output VAT is calculated from the tax base = (purchase price + value added) x tax rate. The difference (output VAT - input VAT) is the tax liability, that they pay to the state budget. In the following examples, we will consider a basic VAT rate of 20%.

Tab. 1: Example (domestic trade - companies in the chain are VAT payers)

Companies	Purchase price	Input tax	Added value	Tax base	Output tax	Tax liability	Selling price
A - SK	**	**	1 000	1 000	200	200	1 200
B - SK	1 000	200	1 000	2 000	400	200	2 400
C - SK	2 000	400	1 000	3 000	600	200	3 600
consumer	3 600						
Total tax burden of the product					600		

(Source: own processing)

The consumer pays the final product selling price with VAT, which is 3,600 €. A specific product is burdened with value added tax, in our example 600 €, which was transferred to the state budget by companies in the production and distribution chain (tax liability, which was gradually paid by three VAT payers of 200 € each), as shown in Tables 1 and 2.

Tab. 2: Domestic trade with an impact on the state budget balance

Companies	Input tax	Output tax	Tax liability	Excessive deduction	Revenue SB	Expenditure SB	Balance SB
A - SK	**	200	200	**	200	**	+ 200
B - SK	200	400	200	**	200	**	+ 200
C - SK	400	600	200	**	200	**	+ 200
consumer							
Impact on the state budget + 600							

(Source: own processing)

In Table 3, we present a classic example of cross-border trade, all Slovak companies and company from the EU are VAT payers and in the production-distribution chain deduct input VAT paid from the purchase price. Output VAT is calculated from the tax base = (purchase price + added value) x tax rate. The difference (output VAT - input VAT) is a tax liability, that they pay to the state budget. Company C-SK does not sell the goods to the final consumer as mentioned in (Table 1), but sells the goods abroad to company D-EU without applying VAT on output.

Tab. 3: Example (cross-border trade - companies in the chain are VAT payers)

Companies	Purchase price	Input tax	Added value	Tax base	Output tax	Tax liability	Selling price
A-SK	**	**	1 000	1 000	200	200	1 200
B-SK	1 000	200	1 000	2 000	400	200	2 400
C-SK	2 000	400	1 000	3 000	**	**	3 000
D-EU	3 000	**	**	**	**	**	**
Total tax burden of the product 400							

(Source: own processing)

A specific product is burdened with value added tax, in our example 400 €, which was transferred to the state budget by companies in the production and distribution chain (tax liability, which was gradually paid by two VAT payers of 200 € each), see in tab. 3 and 4. The company C-SK sells goods abroad to the company D-EU, which is a VAT payer in its country. In cross-border sales VAT is not charged on the price of goods, but the company C-SK requests a refund of input tax, when buying goods from B-SK in the amount of 400 €, which ultimately has an impact on the state budget balance (Table 4).

Tab. 4: Intra - community transaction with an impact on the state budget balance

Companies	Input tax	Output tax	Tax liability	Excessive deduction	Revenue SB	Expenditure SB	Balance SB
A-SK	**	200	200	**	200	**	+200
B-SK	200	400	200	**	200	**	+200
C-SK	400	**	**	400	**	400	- 400
D-EU	**	**	**	**	**	**	**
Impact on the state budget 0							

(Source: own processing)

When comparing the state budget balance (Table 2, Table 4), we see how the balance of the Slovak Republic changes when a foreign customer from EU countries enters the distribution channel, all in the functioning of valid European regulations and laws.

VAT system for carousel fraud with impact on the state budget

One of the most widely used tax fraud is the so-called carousel fraud. In most cases, it is an organized group of people who form a confusing network of companies and white horses, in

which the control authorities are easily lost. The White Horse is an entrepreneur-trader, who acts on the market as a serious company, but his name is usually mentioned by violence, extortion or agreement, when registering a business or founding a company. These are people with no education or front men. At detection of crime they are in the position of the offender and the victim (Denník N 2019).

In a tax carousel it all stands and falls on three pillars. They are:

- white horse (trader),
- company (broker),
- EU VAT payer.

The whole process of tax fraud is shown on a simple model (Table 5), in which the company A – EU, so called the fictitious intermediary, is established in an EU country. Its activities have no direct negative impact on the state budget of Slovakia, but on fraud participates in the chain. In fact, carousel shops have several tens or hundreds of intermediaries (companies selling the same goods) to eliminate the risk of detection. Company B – SK, so called disappeared trader, buys goods from abroad from the company A-EU, while if he files a tax return for VAT declares the acquisition of goods, declares acquisition tax and is also entitled to deduction - there is self-tax - for the state budget 0 €. When selling these goods to company C-SK, it calculates an output tax of 24,000 € (Table 5) to be paid to the state budget. Company C-SK is a company, that creates the impression of a reliable trader, who buys and sells goods on the domestic market with a minimum mark-up. In the VAT return, it will report a high input and output tax on sales with a minimum tax liability of 200 €, which it will also pay to the state budget (Tables 5 and 6). The company C-SK (bumper) is a company inserted into the tax carousel in order to obscure and slow down the tax investigation.

Tab. 5: Intra-community transaction

Companies	Purchase price	Input tax	Added value	Tax base	Output tax	Tax liability	Selling price
A - EU	**	**	**	**	**	**	100 000
B - SK	100 000	**	20 000	120 000	24 000	24 000	144 000
C - SK	120 000	24 000	1 000	121 000	24 200	200	145 200
D - SK	121 000	24 200	0	121 000	**	**	121 000
G – EU	121 000	**	**	**	**	**	**
Total tax burden of the product 24 200							

(Source: own processing)

Company D-SK (trader) is the final element of the chain, that benefits from the scheme. It simulates the delivery of goods to another EU state with a tax exemption and applies a high excessive deduction from its purchase in domestic from the company C-SK, in our example 24,200 € (Table 6).

Tab. 6: Intra - community transaction with an impact on the state budget balance

Companies	Input tax	Output tax	Tax liability	Excessive deduction	Revenue SB	Expenditure SB	Balance SB
A - EU	**	**	**	**	**	**	**
B - SK	**	24 000	24 000	**	24 000	**	+ 24 000
C - SK	24 000	24 200	200	**	200	**	+ 200
D- SK	24 200	**	**	24 200	0	24 200	- 24 200
G - EU	**	**	**	**	**	**	**
Impact on the state budget balance 0							

(Source: own processing)

Table 6 represents the impact on the state budget balance, if the company B-SK (white horse) in the first round of the tax carousel actually paid VAT in the amount of 24,000 €. The balance of the Slovak Republic from this cross-border transaction would be 0 €. In table 7 points to the calculation of the negative balance of the state budget, if company B-SK does not fulfill its VAT liability and the trader - white horse disappears. Ultimately, the state budget shows red numbers from this cross-border transaction, as it has to return an excess deduction of 24,200 € to company D-SK.

Tab. 7: Intra-community transaction with an impact on the state budget balance

Companies	Input tax	Output tax	Tax liability	Excessive deduction	Revenue SB	Expenditure SB	Balance SB
A - EU	**	**	**	**	**	**	**
B - SK	**	24 000	24 000	**	No Pay	**	0
C - SK	24 000	24 200	200	**	200	**	+ 200
D- SK	24 200	**	**	24 200	0	24 200	- 24 200
G -EU	**	**	**	**	**	**	**
Impact on the state budget -24 000							

(Source: own processing)

From the beginning to the end of the chain, however, this is only a fiction, there is no real supply, only invoices are issued in order to fraudulently obtain real money through excessive deductions of the country. Companies C-SK and D-SK are willing to cooperate with the tax administrator, submit various evidence to their claims and the excessive deduction of company D-SK will be paid, despite the fact that VAT on this transaction was not paid by company B-SK. Because the company B-SK is non-contact, the tax office has serious difficulties in proving that taxable transactions are intentional, planned and fraudulent.

Conclusion

The Financial Administration of the Slovak Republic carries out inspections and measures in case of suspicion of illegal trade and inspections of excessive VAT deduction. Another important tool for detecting carousel transactions is the VAT control statement, thanks to which the Financial Administration obtains data from both the supplier and the customer and can detect illegal trade based on unpaired payments. Carousel fraud also involves other legally operating entities, some of them in an effort to reduce their tax liability, and in some cases, even without company awareness, becoming part of a chain of fraudulent activities. Intra-community trade is the supply or acquisition of goods or services between countries in the European Union, the aim of which is to amend the VAT law in order to achieve harmonized rules for all EU countries.

Záver

Finančná správa SR pri podozrení na nelegálny obchod a pri previerkach nadmerného odpočtu DPH robí kontroly a opatrenia. Významným nástrojom pre odhaľovanie karuselových obchodov je aj kontrolný výkaz k DPH, vďaka ktorému Finančná správa získava dáta od dodávateľa i odberateľa a na základe nespárovaných platieb dokáže odhaliť nelegálny obchod. Do karuselových podvodov sa zapájajú aj inak legálne podnikajúce subjekty, niektoré v snahe jednorazovo si znížiť svoju daňovú povinnosť a v niektorých prípadoch sa tak stane dokonca bez vedomia spoločnosti a stanú sa tak súčasťou reťazca podvodných aktivít. Intrakomunitárny obchod predstavuje dodanie alebo nadobudnutie tovaru alebo služby medzi krajinami v Európskej únii, ktorej cieľom sú nové úpravy a doplnenia zákona o DPH k dosiahnutiu harmonizovaných pravidiel pre všetky krajiny EU.

References

- BENKO, J., 2016. Prečo pri nákupe z Alza.sk od 1.1.2016 fakturuje český dodávateľ podnikateľom tovar bez DPH. In: *Podnikajte.sk*. [online]. [cit. 2020-04-22]. Available from: <https://www.podnikajte.sk/dan-z-pridanej-hodnoty/alza-fakturacie-bez-dph-2016>
- DENNÍK N, 2019. Karuselové podvody. In: *Neotax*. [online]. [cit. 2020-04-22]. Available from: <https://neotax.eu/sk/sk/blog/karuselove-podvody>
- JUSKOVÁ, M. and S. JENČOVÁ, 2018. Systém DPH a vplyv platcovstva dane na predajnú cenu. In: *Dimenzie konkurencieschopnosti, trendy a výzvy*. Prešov: Bookmans. s. 33-40.
- KRÁLIK, J., GRÚŇ, L. and L. BALKO, 2001. *Základy daňového, poplatkového a colného práva*. Bratislava: Právnická fakulta UK. ISBN 80-7160-150-8.
- ROLICK CONSULT, 2018. *Samozdanenie – intrakomunitárny obchod – reverse charge*. [online]. [cit. 2020-04-22]. Available from: <http://rolick.sk/sk/blog/10/samozdanenie-intrakomunitarny-obchod-reverse-charge>
- SEDLIAK, M., 2016. Intrakomunitárne obchody. In: *Ekonom.sk*. [online]. [cit. 2020-04-22]. Available from: <https://www.ekonom.sk/dph/intrakomunitarne-obchody/>
- SCHULTZOVÁ, A. et al., 2011. *Daňovníctvo – daňová teória a politika I*. Bratislava: Iura Edition.
- ŠIROKÝ, J., 2016. *Základy daňové teórie s praktickými príklady*. Praha: Wolters Kluwer ČR.
- Zákon č. 222/2004 Z.z. o dani z pridanej hodnoty v znení neskorších predpisov
- Zákon č. 431/2002 Z.z. o účtovníctve v znení neskorších predpisov

Acknowledgements

This paper is supported by the grant VEGA 1/0194/19

Address:

doc. Ing. Sylvia Jenčová, PhD.

University of Prešov in Prešov, Faculty of management,
Department of Finance
Konštantínova 16, 080 01 Prešov, Slovakia
Email: sylvia.jencova@unipo.sk

Mgr. Marta Lukáčová

University of Prešov in Prešov, Faculty of management,
Department of Finance
Konštantínova 16, 080 01 Prešov, Slovakia
Email: marta.lukacova@smail.unipo.sk

Ing. Mária Jusková, PhD., MBA

University of Prešov in Prešov, Faculty of management,
Department of Accounting and Controlling
Konštantínova 16, 080 01 Prešov, Slovakia
Email: maria.juskova@smail.unipo.sk