

General Information for VAT

1. General information for the application of VAT by Right-holders and INTERGRAM

(i) Application of VAT by Right-holders

For the purposes of the application of VAT, the Right-holders are considered persons carrying out economic activity and VAT taxable persons. That means that such persons and supplies provided by them in the form of grant of rights are subject to the VAT rules and regulations valid in the European Union (hereinafter referred to as the "EU"), incl. the Czech Republic (hereinafter referred to as the "CR"). In the case of EU, the regulations include (without limitation) Directive of Council 2006/112/EC on the common system of value added tax, as amended (hereinafter referred to as the "VAT Directive"). In the case of CR, the regulations include (without limitation) Act No. 235/2004 Coll., on value added tax, as amended (hereinafter referred to as the "Czech VAT Act").

For the purposes of the application of VAT, the Right-holders grant rights to the collective administrator of such rights, i.e. INTERGRAM, z.s. (hereinafter referred to as the "INTERGRAM"). That means that from the point of view of VAT, they provide a service to INTERGRAM. The Right-holders are entitled to remuneration for the grant of rights (hereinafter referred to as the „Remuneration for Grant of Rights”). The Right-holders (only VAT payers) issue an invoice for the Remuneration for Grant of Rights to INTERGRAM, which will contain details stipulated by law (see Section 2)

The Right-holders may be entitled to other sums of money in connection with copyright to compensate any damage for any use of rights without a contract. Such sums of money are not subject to VAT (see point (iv) of this Section 1.).

One of the most important factors for the application of VAT with respect to the Remuneration for Grant of Rights is where the Right-holder is Established (see points (iii) and (v) of this Section 1.).

The specific method of the application of VAT with respect to invoices for the Remuneration for Grant of Rights depends on specific conditions and is further detailed in Section 2.

(ii) Application of VAT with respect to INTERGRAM

For the purposes of the application of VAT, INTERGRAM provides a service to the Right-holder entailing the administration of rights. Remuneration for this service is called an overhead deduction for collective administration by INTERGRAM and overhead deduction for the provision of cultural, social and educational services (hereinafter also referred to as the "Remuneration for Collective Administration"). INTERGRAM issues an invoice for the Remuneration for Collective Administration to the Right-holders, which must contain details stipulated for an invoice by law (hereinafter also referred to as the "Invoice for Overhead Deduction").

One of the most important factors for the application of VAT with respect to the Remuneration for Collective Administration is where the Right-holder is Established (see points (iii) and (v) of this Section 1.).

The specific method of the application of VAT with respect to invoices for the Remuneration for Collective Administration depends on specific conditions and is further detailed in Section 2.

(iii) Where Right-holders are Established for the purposes of VAT

It is essential for the application of VAT in which country the Right-holder has established his/her place of business for the purposes of VAT, i.e. in which country the Right-holder is "Established" for the purposes of VAT.

According to the Czech VAT Act, the place of business of the taxable person is the place of its management, which is the place where essential decisions are made, or the place where its management gathers for meetings; if a natural person has no such place, the place of business means the place of permanent or actual residence. Provided that:

- a) The Czech VAT Act stipulates that the place of permanent residence means the address identified in the Central Residential Register or another similar register, or the address which the natural person notified to the tax authority unless there is evidence that such address is false.
- b) The Czech VAT Act stipulates that the place of actual residence is the place where the natural person lives for personal or professional reasons; if the country where such person has professional links is different from the country where such person has personal links, the latter shall be the place of such person's actual residence.

The Czech VAT Act also stipulates that the establishment for the purposes of VAT means a business unit of the taxable person which is authorized to make supplies of goods or provision of services and is sufficiently permanent and has suitable human and technical resources.

In the case of Right-holders, the place where they are Established is usually the place of their permanent or actual residence.

Notice: If the Right-holder is registered for VAT in CR, INTERGRAM considers such Right-holder to be Established in CR. This shall apply when the Right-holder is registered for VAT in CR pursuant to Section 6, or § 6f (1) of the Czech VAT Act. If the Right-holder is registered for VAT in CR pursuant to any section of the Czech VAT Act different from the sections mentioned above, then such Right-holder must notify INTERGRAM without any delay as this fact may have an impact on the correctness of the application of VAT.

If the Right-holder is not certain where it is Established, then such Right-holder must notify INTERGRAM without any delay as this fact may have an impact on the correctness of the application of VAT.

- (iv) Exemptions from the application of VAT – Other pecuniary claims of Right-holders (remuneration pursuant to Section 25 of the Copyright Act and similar remuneration)

If all the conditions are fulfilled, the Right-holders are entitled to remuneration in connection with the reproduction of performances and fixations for personal use and internal needs pursuant to Section 25 of the Copyright Act No. 121/2000 Coll., as amended (hereinafter referred to as the "Remuneration pursuant to Section 25 of the Copyright Act") and remuneration from the Czech Film Fund. Such remuneration is paid to the Right-holders by the producers and importers of blank carriers and devices intended to make fixations and by the Czech Film Fund through INTERGRAM, which, also in this case, acts as a collective administrator.

Remuneration pursuant to Section 25 of the Copyright Act and Remuneration from the Czech Film Fund takes the form of damages, i.e. the compensation of any damage caused to the Right-holders, and for this reason and in compliance with the case-law of the EU Court of Justice (Judgment C-37/16), such remuneration is not subject to VAT and is not included in the income for mandatory registration for VAT. The tax documents (invoices) issued by the Right-holders shall not indicate any VAT rate or VAT amount with respect to this item, or shall indicate the VAT rate in the amount of "0".

Invoices for 2018 shall be issued by the Right-holders in accordance with the information specified on the accounting document for 2017, where they can find the remuneration divided into the remuneration as the tax base for 21% VAT rate and the remuneration as the tax base for 0% VAT rate.

- (v) Procedure for the application of VAT

The procedure for the application of VAT will differ depending on the country in which the Right-holder is Established. Depending on the country in which the Right-holder is Established, there are following situations:

- a) Application of VAT - Right-holders Established in CR (see point 2.1)
- b) Application of VAT - Right-holders Established in EU, but outside CR (see point 2.2)
- c) Application of VAT - Right-holders who are not VAT payers in CR and are Established outside EU (see point 2.3)
- d) Application of VAT - Right-holders who are VAT payers in CR and are Established outside EU (see point 2.4)

2. Application of VAT

2.1 Notice for the application of VAT for Right-holders Established in CR

- a) Application of VAT to the Remuneration for Grant of Rights and invoices for such remuneration
Invoices for the Remuneration for Grant of Rights will differ depending whether the Right-holder is a VAT payer in CR or not.

- (i) The Right-holder is Established in CR and is a VAT payer in CR

The place of performance with respect to services provided by the Right-holder who is Established in CR is CR, in compliance with Section 9 (1) of the Czech VAT Act. The party liable to pay the Czech VAT with respect to the service provided shall be the Right-holder who is a VAT payer.

The Right-holder shall issue an invoice, containing details stipulated for invoices by law, for the Remuneration for Grant of Rights with Czech VAT and shall also include remuneration (the amount of damages, see point (iv) cl. 1. above) not subject to VAT. The details indicated by the Right-holder in the invoice shall include (without limitation):

1. Remuneration subject to VAT (see section 1 point (i))
 - Tax basis – Remuneration for Grant of Rights in the amount excl. VAT
 - Amount of VAT in the statutory rate valid on the date of taxable supply
 - Remuneration subject to the VAT scheme, incl. the VAT amount
2. Remuneration not subject to VAT (see section 1 point (iv))
 - Tax basis not subject to the VAT scheme – Amount of the compensation for any damage caused to the Right-holder
 - Amount of VAT at 0 %
 - Total remuneration not subject to the VAT scheme
3. Remuneration payment
 - Partially settled by set-off against the Invoice for Overhead Deduction
 - Remaining payment (shall be paid by INTERGRAM after receiving the relevant invoice)

- (ii) The Right-holder is Established in CR and is not a VAT payer in CR

The place of performance with respect to services provided by the Right-holder who is Established in CR is CR, in compliance with Section 9 (1) of the Czech VAT Act. The Remuneration for Grant of Rights is included in the income for mandatory registration for VAT in CR.

The Right-holder shall not issue an invoice for INTERGRAM. The Right-holder shall receive information from INTERGRAM regarding the amount of remuneration and the Invoice for Overhead Deduction (see point b) below). The Remuneration will be paid to the Right-holder.

- b) Application of VAT with respect to Remuneration for Collective Administration and invoices for such remuneration

The place of performance with respect to collective administration services provided by INTERGRAM is CR, in compliance with Section 9 of the Czech VAT Act. The person liable to pay the Czech VAT with respect to the service provided shall be INTERGRAM considering the fact that the Right-holder is Established in CR.

INTERGRAM shall issue an invoice which shall contain details stipulated for invoices by the Czech VAT Act, for the Remuneration for Collective Administration with Czech VAT. The Right-holder is entitled to deduct VAT in a VAT return in the Czech Republic, provided the Right-holder is a VAT payer and fulfils the conditions stipulated by law.

2.2 Notice for the application of VAT for Right-holders Established in EU, but outside CR

- a) Application of VAT with respect to Remuneration for Grant of Rights and invoices for such remuneration

The place of performance with respect to services provided by a Right-holder who is Established in EU but outside CR is CR, in compliance with Section 9 (1) of the Czech VAT Act. The person liable to submit a VAT return and pay VAT with respect to this service shall be INTERGRAM. INTERGRAM shall use the reverse-charge mechanism to apply VAT. INTERGRAM shall apply this procedure regardless of whether the Right-holder is registered for VAT in another EU member-state or not. The Right-holder is not obliged to register for VAT in CR in connection with the grant of rights.

Invoices for the Remuneration for Grant of Rights will differ depending whether the Right-holder is a VAT payer in another EU member-state outside CR or not.

- (i) The Right-holder is Established in EU, but outside CR, and registered for VAT in another EU member-state outside CR

The Right-holder shall issue an invoice for Remuneration for Grant of Rights without any VAT (VAT rate shall be 0%) in compliance with the VAT regulations valid in the EU member-state in which the Right-holder is Established. The Right-holder shall break down the items in the invoice as follows:

- I.I. Remuneration subject to VAT (see section 1 point (i))
- II.II. Remuneration not subject to VAT(see section 1 point (iv))

- (ii) The Right-holder is Established in EU, but outside CR, and not registered for VAT in another EU member-state outside CR

The Right-holder shall not issue an invoice for INTERGRAM. The Right-holder shall receive information from INTEGRAM regarding the amount of remuneration and Invoice for Overhead Deduction (see point b) below). Remuneration will be paid to the Right-holder.

- b) Application of VAT with respect to Remuneration of Collective Administration and invoices for such remuneration

The Right-holder is obliged to notify the VAT registration number to INTERGRAM which is used by INTERGRAM to provide the collective administration service and to enter the collective administration service in the summary report. If the VAT legislation of the EU member-state in which the Right-holder is established does not require any VAT registration number from the VAT payer for purchases of general services and the Right-holder has not been assigned a VAT registration number, the Right-holder is obliged to notify such fact in writing to INTERGRAM.

The place of performance with respect to services provided by INTERGRAM is the EU member-state in which the Right-holder is Established, in compliance with Section 9 (1) of the Czech VAT Act and the in compliance with Article 44 of the VAT Directive. The person liable to submit a VAT return and pay VAT with respect to Remuneration for Collective Administration shall be the Right-holder, in compliance with the legislation valid in the EU member-state in which the Right-holder is Established. The Right-holder should use the reverse-charge mechanism to apply VAT with respect to such service, in compliance with Article 196 of the VAT Directive.

INTERGRAM shall issue an invoice for the Remuneration for Collective Administration (Invoice for Overhead Deduction), which shall contain details stipulated for invoices by law, excl. any VAT. The invoice shall indicate that the VAT rate is 0%.

2.3 Notice for the application of VAT for Right-holders who are not VAT payers in CR and who are established outside EU

- a) Application of VAT with respect to Remuneration for Grant of Rights and invoices for such remuneration

The place of performance with respect to services provided by a Right-holder who is not Established in EU is CR, in compliance with Section 9 (1) of the Czech VAT Act. The person liable to submit a VAT return and pay VAT with respect to this service shall be INTERGRAM. INTERGRAM shall use the reverse-charge mechanism to apply VAT. The Right-holder is not obliged to register for VAT in CR in connection with the grant of rights.

The Right-holder shall issue an invoice for the Remuneration for Grant of Rights, which shall contain details stipulated for invoices by law, excl. any VAT in compliance with VAT legislation valid in CR. The invoice shall indicate that the VAT rate is 0%. The Right-holder shall break down the items in the invoice as follows:

- (i) Remuneration subject to VAT (see section 1 point (i))
- (ii) Remuneration not subject to VAT(see section 1 point (iv))

- b) Application of VAT with respect to Remuneration of Collective Administration and invoices for such remuneration

The place of performance with respect to services provided by INTERGRAM is the third country outside EU in which the Right-holder is Established, in compliance with Section 9 (1) of the Czech VAT Act and the in compliance with Article 44 of the VAT Directive. Any application of VAT in the country in which the Right-holder is Established shall be governed by VAT legislation valid in such country.

INTERGRAM shall issue an invoice for the Remuneration for Collective Administration (Invoice for Overhead Deduction), which shall contain details stipulated for invoices by law, excl. any VAT. The invoice shall indicate that the VAT rate is 0%.

2.4 Notice for the application of VAT for Right-holders who are VAT payers and Established outside EU

- a) Application of VAT with respect to Remuneration for Grant of Rights and invoices for such remuneration

The place of performance with respect to services provided by the Right-holder who is not Established in EU is CR, in compliance with Section 9 (1) of the Czech VAT Act. The person liable to submit a VAT return and pay VAT with respect to this service shall be INTERGRAM. INTERGRAM shall use the reverse-charge mechanism to apply VAT.

The Right-holder shall issue an invoice for the Remuneration for Grant of Rights excl. any VAT in compliance with VAT legislation valid in CR. The invoice shall indicate that the VAT rate is 0%. The Right-holder shall break down the items in the invoice as follows:

- (i) Remuneration subject to VAT (see section 1 point (i))
- (ii) Remuneration not subject to VAT(see section 1 point (iv))

- b) Application of VAT with respect to Remuneration of Collective Administration and invoices for such remuneration

The place of performance with respect to services provided by INTERGRAM is CR, in compliance with Section 9a of the Czech VAT Act because the actual use or consumption of service occurs in CR. The person liable to submit a VAT return and pay VAT with respect to this service shall be INTERGRAM.

INTERGRAM shall issue an invoice for the Remuneration for Collective Administration, which shall contain details stipulated for invoices by law, incl. Czech VAT. The Right-holder shall be entitled to deduct VAT in a VAT return in CR provided the same fulfils the conditions stipulated by law.