

Predictability Principle of Tax Sanctions Threats in the Legal System

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The mission of the economic entity is to produce added value. Business is related to tax levies and related obligations of monetary and non-monetary nature. In the event of a breach of these obligations, penalties may be imposed and may result in disruption of the financial entity's economic flows and decrease in value added. The subject of this work is the analysis of selected tax sanctions in the Czech Republic. The aim of this paper is to identify potential risks arising from the prescription of tax sanctions for economic subject. To achieve this paper's aims, the exquisite instrument is the application of special modelling and simulation methodology for crisis scenarios – the DYVELOP method (Dynamic Vector Logistics of Processes).

Keywords: Business Continuity, Dynamic Vector Logistics of Processes Method, Security Risks, Tax Sanctions, Tax Code, Tax Attribution (VAT Sanction), Value Added Tax.

1. Introduction

The issue of financing the EU budget is still a current topic. The continuity of securing tax collection and state budget implementation is the primary task of each EU Member State. Value-added tax is one of the major pillars of budget financing. In this context, every tax subjects incurs obligations of a monetary and non-monetary nature.

The OECD presents a directive addressed to multinational companies. The directive is in line with standards on corporate social responsibility, such as the UN Global Compact and ISO 26000, on corporate social responsibility. One of the points is social responsibility in the fulfillment of tax obligations of both monetary and non-monetary nature. Compliance with the recommendations resulting from these standards cannot be enforced by law. Compliance with these obligations is therefore regulated by public law, through sanction systems. In the Czech Republic, tax sanctions are primarily regulated by certain provisions of Act No. 280/20019 Coll., The Tax Regulations and Act No. 235/2004 Coll., On Value Added Tax.

Sanction make tax attribution shall mean the interest, penalties, fines and costs of proceedings, if imposed or arising under tax law. The interest, penalty and fine for a delayed tax statement shall follow the fate of the tax. (Tax Regulations, Section 5) (hereinafter referred to as a "tax sanctions").

The function and purpose of tax sanctions is primarily prevention and repression. The

prerequisite for the collection and implementation of the state budget through taxes is the financial health of each tax entity. Business continuity can be ensured through a controlling actor who financially analyzes and assesses the level of vulnerability and flexibility. This begs the question of the predictability of tax sanctions by the taxpayer, such as a breach of the security of business continuity for the taxpayer in real time. The subject of this paper is an analysis of the sanction system in the Czech Republic from the point of view of the Tax Regulations and Value Added Tax. The aim of this paper is to identify potential risks arising from the prescription of tax sanctions for economic subject. To achieve this paper's aims, the exquisite instrument is the application of special modelling and simulation methodology for crisis scenarios – the DYVELOP method (Dynamic Vector Logistics of Processes).

2. Data and Research Methodology

Data analysis will consist of testing and combining qualitative and quantitative approaches.

DYVELOP © methodology, ie Dynamic Vector Logistics of Processes, will be used for modelling logistic tax sanctions in a static PowerPoint image with a structured real time, environments and actors. Urbanek (2013)

The public data of the Ministry of Finance of the Czech Republic will be used to analyse the sanction system. Time series will be defined by the required length and accessibility according to

the topic (after the accession to the EU, ie in the range of 2005 to the present).
The research analysis and synthesis will be performed mainly on the basis of Czech or world sources

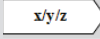
3. Structure of the Model

Depending on the type of tax breach, sanctions can be broken down in the Czech Republic as follows: the first group are sanctions for breach of tax obligations in the area of the tax returns or payment discipline. For these sanctions the tax administrator has no choice, sanctions are prescribed according to legal provisions. For example, fines for late tax returns (§ 250 of the Tax Code), penalties (§ 251 of the Tax Code), interest on late payments (§ 252 of the Tax Code). The second group consists of sanctions that are imposed for non-monetary obligations. Here the tax administrator has a choice whether to prescribe the penalty. These include, for example, a fine for breach of confidentiality (Section 246 of the Tax Code), a fine for fines (Section 247 of the Tax Code), and a fine for failure to fulfill obligations of a non-monetary nature (Section 247a of the Tax Code).

Due to the complexity of the issue, only some selected sanctions will be discussed in the article, listed in the first group, which are regulated by the Tax Code and the Value Added Tax Act.

Table 1. Entities table

Classifier Name of the entity	Semantics Entities role	Remarks and Decorations
		Characteristics, properties, symptoms, system features, quantity, quality, measurement units, specifications, ornaments ...
ENV Environment of Economic Activity and Added Value	The Economic Activity and Added Value	individual environments and entities
ENV Fine for a Late Tax Statement	Act no. 280/2009 Coll., on Tax Regulations Act no. 235/2004 Coll., On Added Value Tax	Act no. 280/2009 Coll., of 22 July 2009 Tax Regulations, Part One Introductory Provisions, Part Two General Part on Tax Administration, Part Three Special Part on Tax Administration, Part Four Consequences of

		Breaches of Obligations in Tax Administration, Part Five Common, Authorisation, Transitional and Final Provisions. Act no. 235/2004 Coll., of 1 April 2004 on Value Added Tax, Part One Basic Provisions, Part Two Transitional, Repealing and Final Provisions
ENV Penalty	Act no. 280/2009 Coll., on Tax Regulations	
ENV Interest on Arrears	Act no. 280/2009 Coll., on Tax Regulations	
	Symbol of the Logistics Process System	from source to target, acting on a defined ENV: the symbol has the shape of a pentagon with sharp corners, the controlling actor is the interface line dividing the logistic flow into two qualitatively different doses from the source to the target, the doses may have the nature of the flow of material, information, money,
PrS Taxpayer (the Payer of VAT)	Taxpayer (the Payer of VAT)	
PrS Value added	Value added	
PrS Fine	Act no. 280/2009 Coll., on Tax Regulations	Section 250
	Act no. 235/2004 Coll., On Added Value Tax	Section 101h Consequences of Breaches of Obligations Relating to Control Statements
PrS Penalty	Act no. 280/2009 Coll., on Tax Regulations	Section 251

PrS Interest on Arrear	Act no. 280/2009 Coll., on Tax Regulations	Section 252
<< PrS Disruptive events I >>	Disruptive events I	Act no. 280/2009 Coll., on Tax Regulations
		Fine for a Late Tax Statement (1) If the tax subject fails to file a tax return or additional tax return, although they were obliged to do so, or if they do so after the set term, and such a delay is longer than 5 working days, the tax subject shall become obliged to pay a fine in the amount of a) 0.05% of the assessed tax for each following day of delay but no more than 5% of the assessed tax, b) 0.05% of the determined tax deduction for each following day of delay but no more than 5% of the determined tax deduction, or c) 0.01% of the determined tax loss for each following day of delay but no more than 5% of the determined tax loss.
		Act no. 235/2004 Coll., On Added Value Tax If a payer that has not made a data box accessible has not so far notified the tax administrator of the electronic address, Subsection 4 shall not apply. a) 1 000 CZK if the payer files the control statement without being called upon to do so,

		b) 10 000 CZK if the payer files the control statement in the additional period after being called upon by the tax administrator to do so, c) 30 000 CZK if the payer fails to file the control statement upon a call to change, supplement or confirm the data stated in the filed control statement, or d) 50 000 CZK if the payer fails to file the control statement even in the additional period. (2) 50 000 CZK if the payer fails to file the control statement even in the additional period. (3) The tax administrator shall impose a fine up to 500 000 CZK on a payer that seriously obstructs or hinders value added tax administration by failing to fulfil an obligation relating to a control statement.
<< PrS Disruptive events II >>	Disruptive events II	(1) The tax subject shall become obliged to pay a penalty calculated from the sum in which the additionally assessed tax differs from the last known tax, and such a penalty shall amount to a) 20% if the tax is increased, b) 20% if the tax deduction is reduced, or c) 1% if the tax loss is reduced.
<< PrS Disruptive events III >>	Disruptive events III	(1) A tax subject is in arrears if they fail to pay a due tax on its due date at the latest. (2) The tax subject shall become obliged to pay interest

		on arrears for each day of delay starting from the fifth working day following the due date until and including the day of payment. The amount of the interest on arrears shall correspond, per annum, to the amount of the repo rate set out by the Czech National Bank, increased by 14 percentage points, and effective for the first day of the concerned calendar half-year. If an additional due date is set out for the tax, the interest on arrears shall begin to accrue on the fifth working day following the original due date.
<< PrS Disruptive events IV >>	Disruptive events IV	Unpredictability of Tax Sanctions Threats

Source: own processing

3.1 Data Analysis

The data of selected tax sanctions according to the Tax Code and the Value Added Tax Act will be analyzed as follows:

In the introduction of the analysis, a comparison of the collection of VAT sanctions and collection of sanctions on other types of tax revenues between 2005 and 2018 in the Czech Republic will be made. Further analysis will consist in performing a correlation regression analysis to clarify the hypothesis, dependency or independence of VAT collection and collection of VAT sanctions.

The Tax Code in the Czech Republic has established the institute of Proceedings for Waiving Tax or Tax Attribution forgiving certain tax sanctions. The next point of the analysis will be the comparison of the amount of waiver of VAT sanctions and collection of VAT sanctions. Data on the collection of tax sanctions in the years 2005 to 2018 were obtained through the Information on the Activities of the Financial Administration of the Czech Republic. The most important share is 72% VAT. The Corporate Income Tax is 19%, the Personal Income Tax is 3% and other types of income positions are less significant.

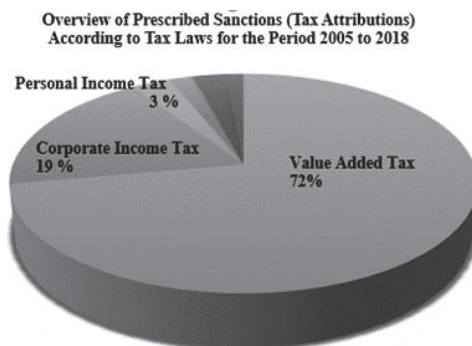


Fig. 1. Collection of Sanctions in the Czech Republic in Total for the Years 2005 to 2018 (own processing)

The table 1 below shows VAT Sanction and VAT Collection from 2005 to 2018. The Pearson coefficient r , its theoretical value is p , the correlation coefficient rises between the numbers -1 to 1 and indicates the direction of the dependence, if $r = 0$ (or gets near zero), the variables are independent. Hendl and Remr, (2017). We can plot this situation graphically, for example using a correlation and regression analysis graph and the Pearson coefficient r (1), pairs of measured values $(x_1 y_1)$, $(x_2 y_2)$,, $(x_n y_n)$ for variables X and Y :

$$r = \frac{\sum_{i=1}^n (x_i - \bar{x}) (y_i - \bar{y})}{\sqrt{\sum_{i=1}^n (x_i - \bar{x})^2 \sum_{i=1}^n (y_i - \bar{y})^2}} \quad (1)$$

Table 2. VAT Sanction and VAT Collection from 2005 to 2018 (Note: the table works with data before the Tax Code, ie before 2011.)

Year	VAT Sanctions (in CZK million)	VAT Collection (in CZK million)
2005	3095,2	204 941
2006	4100,7	217 394
2007	4291	235 844
2008	5444	254 939
2009	5432	253 464
2010	6517	269 582
2011	7472	275 188
2012	9673	278 052
2013	11184	308 300
2014	11612	322 662
2015	13349	331 604
2016	17172	349 460
2017	10413	381 435
2018	10183,5	413 013
Total	119938,4	4 095 877

Source: Information on Activities of the Financial Administration of the Czech Republic (own processing)

Regression and correlation analysis of the VAT Sanction and VAT Collection from 2005 to 2018 for variables $Y = \text{VAT Collection}$ and $X = \text{VAT Sanction}$. Sum of all the data for the years 2005-2018 see Table 2 - VAT Sanction and VAT Collection from 2005 to 2018 (Note: the table works with data before the Tax Code, ie before 2011) and according to Fig. 2 of the correlation regression analysis, a correlation coefficient of 0,779111633 is reported. T - test of the linear independence of variables verifies the validity of the H_0 hypothesis against the alternative hypothesis H_1 . The significance of the correlation coefficient is verified at a materiality level of 5% using Student's distribution. Quantum student's division $t_{1-0,975}$ (Excel TINV function (α , $n-2$) or statistical table T2 Quantities tp Student Distribution S (k).

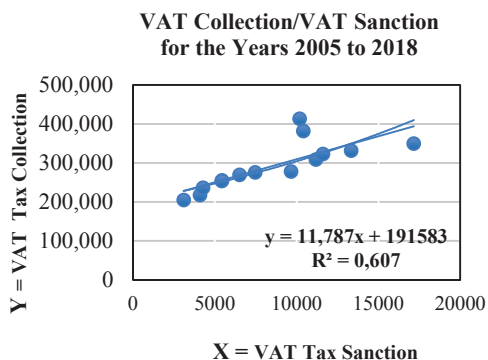


Fig. 2. Correlation regression analysis, (own processing)

However, $n = \text{number of attempts}$, the hypothesis is rejected if: $|t| > t_{1-\alpha/2}$, the correlation coefficient is statistically insignificant if we do not reject the hypothesis H_0 .

$Y = \text{VAT Collection}$, $X = \text{VAT Sanction}$

H_0 : The number of VAT Collection and VAT Sanction are totally independent for the years 2005 to 2018.

H_1 : The number of VAT Collection and VAT Sanction are totally dependent for the years 2005 to 2018.

Quantile student divisions $t_{1-0,975}$ (function Excel $=T.INV.2T(0,05;14) = 2,144786688$.

By the T - test, the H_0 hypothesis was rejected and the H_1 hypothesis was confirmed: the number of VAT Collection and VAT Sanction is broadly linear for the years 2005-2018. In Pearson's correlation, for the range of 0.1-0.3 it's weak correlation, 0.4-0.6 medium correlation, 0.7-0.8 strong correlation, above 0.9 very strong correlation. Correlation of VAT Collection and VAT Sanction for the years 2005-2018 is assessed as strong. The Tax Code contains the institute of waiver of certain sanctions. When approving the remission, the tax administrator takes into account the frequency of violations, indebtedness and the economic or social situation of the affected entity. The following chart shows the frequency of remission of sanctions between 2005 and 2018 due to their choice. In comparison with 2005 and 2018, the collection of VAT sanctions increased more than threefold. While in 2005, 14% of the prescribed sanctions were waived, in 2018 it was only 0.35%.

Table 3. VAT Sanction and VAT Collection from 2005 to 2018 (Note: the table works with data before the Tax Code, ie before 2011.)

Year	VAT Sanctions (in CZK million)	Waiver of VAT Sanctions (in CZK million)
2005	3095,2	435,9
2006	4100,7	373
2007	4291	419
2008	5444	354
2009	5432	365
2010	6517	449
2011	7472	206
2012	9673	17
2013	11184	5
2014	11612	0
2015	13349	8
2016	17172	23
2017	10413	108
2018	10183,5	36
Total	119938,4	2798,9

Source: Information on Activities of the Financial Administration of the Czech Republic (own processing)

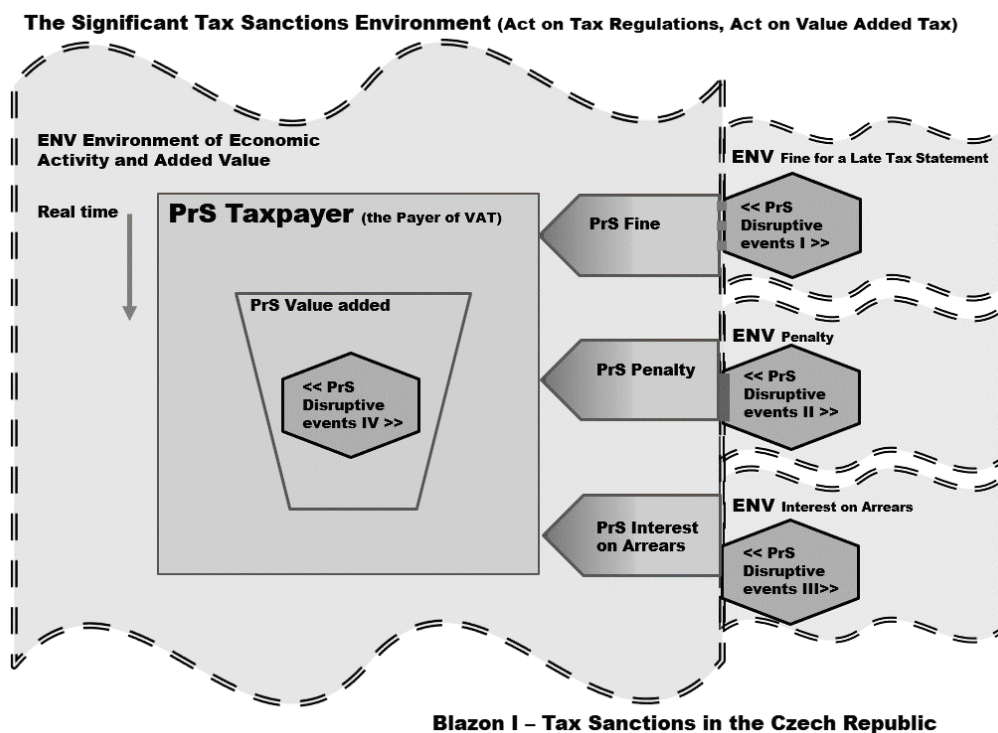


Fig. 2. Model of selected sanctions and possible threat to financial flows in economic activity

4. The Risks of Tax Sanctions for Economic Activity

The basis for sound economic development is growth in gross domestic product. In more detail, it is the result of the economic activities of individual economic entities. Each economic entity can be monitored in the framework of economic activity that creates added value.

At present, the OECD is a directive addressed to multinational companies. The Directive is in line with other CSR standards such as the UN Global Compact and ISO 26000 on CSR. ISO standard is a tool in the field of socially responsible business. Compliance with the recommendations cannot be legally enforced. The chapters of the Directive deal with: access to information, human rights, employment and labor relations, the environment, the fight against bribery and extortion, consumers' interests, science and technological innovation, competition and taxation issues. Businesses should comply with their tax obligations, comply with tax

regulations, cooperate with the tax authorities and provide the information they need.

We will assume that the corporate social responsibility rule applies in terms of fulfilling the monetary and non-monetary nature of tax obligations and complying with the ISO 26000 recommendations from the perspective of economic entities.

This means that if an economic subject fails to fulfill its obligations, it is clear that the sanction comes. The economic subject expects this event. An incident, in the sense of prescribing a sanction, may be caused by an error (mistake), which may not be the intention.

The tax return may be filed late due to an administrative error or due to an error in the electronic submission of the submission and delivery to the tax administrator. Equally unintentionally, there may be errors in accounting or payments in tax payments. The following cases will present some unintended and impending situations:

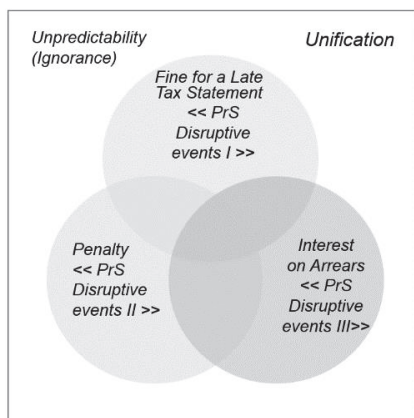


Fig. 3. Unification VAT Sanctions

Case 1 in the environment of defined tax sanctions (Disruptive Events I):

A VAT payer who is a monthly VAT payer is obliged to file a tax return and another statement as of the 25th day of each month: Control Statements (in principle always when taxable transactions are reported).

The payer is of the opinion that he has fulfilled his obligation, but he has sent another file by mistake under the administrative burden, with data relating to the previous month. If this is not found within 5 working days after the deadline for which the sanctions are not yet prescribed, the tax administrator's response will be as follows:

The tax administrator accepts electronic submissions, which they evaluate as already submitted in the previous period and therefore duplicate. Proceedings thus initiated shall be terminated by a decision pursuant to Section 106 of the Tax Code and shall require the payer to submit a tax return and a statement in writing, as the mandatory filings for the current month have not been filed.

Disruptive Events I: Control Statements filed within a compensatory period of CZK 10,000, not filed within a compensatory period of CZK 50,000 (Section 101h of the Value Added Tax Act), in the case of a tax return rate, max 300 000 CZK (§ 250 Tax Code).

Case 2: in the environment of defined tax sanctions (PrS Disruptive Events I):

The VAT payer, who is a monthly VAT payer, will file a tax return and a control statement by the deadline for submission. The Control Statements in terms of supplier and customer data is evaluated at the central location as error. Supplier and customer data do not match. The tax administrator will issue a notice to remedy the defects, a period of 5 days from the delivery to the payer (Section 101g of the Value Added Tax Act).

Disruptive Events I: control statement filed in the alternative period of CZK 30,000, not filed in the alternative period of CZK 50,000 (Section 101h of the Value Added Tax Act).

The payer himself finds out that he did not provide the data correctly and submits an additional tax return; the alternative period for its submission depends on the date of the finding (until the end of the following month from the finding (Section 141 of the Tax Code). The data must be in line with the control statement and must therefore submit a subsequent control statement. Here the term is shorter, namely five working days from the finding (Section 101f of the Value Added Tax Act).

If the substitute deadline for submitting the follow-up inspection fails, he / she is obliged to sanction. Control Statements filed in the alternative period of CZK 1,000, not filed in the alternative period, max. CZK 50,000 (Section 101h of the Value Added Tax Act).

The additional tax return is related to its late payment, when the tax is paid in the alternative period. Late payment interest (PrS Disruptive Events III) can be associated.

Sanctions are not mutually exclusive, but unite. And if for the same period the administrator discovers an error in the tax return and the tax is assessed on the basis of control, additional sanctions are associated, and those Disruptive Events II. In the case of an additional tax, 20% is added to the additional tax and associated with late payment interest (Prs Disruptive Events III).

Only some of the complexity sanctions have been selected for the purposes of this article. And in cases it is clear that sanctions can be

chained together and act in a single tax period (PrS Disruptive Events IV).

A risk situation may arise if an economic entity does not (ignore) the risk of imposing a sanction and possibly endangering the stability of its financial income and flows. In the case of violation of indebtedness towards the state comes sanctions that cannot be waived due to the violation of indebtedness.

5. Conclusion

The aim of this paper was to identify potential risks arising from the prescription of tax sanctions for economic subject.

At the beginning of the thesis were defined tax penalties and type of income, which the article deals with. Based on the analysis of the collection of tax sanctions, it was confirmed that value added tax sanctions represent a significant share of the collection. A common feature of defined sanctions is the fact that the tax administrator does not have a choice when prescribing them. These sanctions are prescribed according to legal provisions and the type of breach of obligations. By testing the significance of the correlation coefficient T- linear independence test, the hypothesis H_0 : the number of VAT collection and VAT sanction are totally independent for the years 2005 to 2018 was rejected at the significance level of 5% using Student's distribution. In the Pearson's correlation of VAT Collection and VAT Sanction for the years 2005- 2018 is assessed as strong. The impacts of selected sanctions were selected and described in simple cases. Attention was drawn to the fact that sanctions are not mutually exclusive but unified. This means that more than one type of sanction can operate at the same time. This was not a criticism of the sanctioning system, but a warning to economic operators of the sanctioning effects in the event of an error. The waiver of sanctions by the tax administrator is possible only under conditions, one of which is indebtedness. Achieving financial stability within the business, showing added value and at the same time flawlessly fulfilling tax obligations of a monetary and non-monetary nature is a challenging task for taxpayers (VAT payers).

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