

# Companies from Great Britain and Norway without VAT representatives

The Ministry of Finance has prepared a draft regulation on the lack of a requirement to appoint a tax representative by taxable persons from Norway and Great Britain. The new regulation is to apply retroactively as of 1 January 2021.

In accordance with currently binding VAT regulations, a taxable person without a place of business establishment or permanent place of business in the territory of an EU member state, subject to registration as an active payer of VAT, is required to appoint a tax representative. As a rule, this applies to entities from third countries, which conduct operations subject to taxation with VAT in the territory of Poland.

The new regulation is meant to enable business operations without the need to appoint a tax representative by entities from those third countries that have regulations on administrative cooperation, in particular on combating fraud and recovery of VAT debts. In consequence, taxable persons who conduct operations in the territory of the Kingdom of Norway or the United Kingdom of Great Britain and Northern Ireland will not be required to appoint a tax representative.


In the case of the United Kingdom of Great Britain and Northern Ireland, the Trade and Cooperation Agreement has been concluded between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (OJ L 444, 31.12.2020, p. 14). In the case of Norway, in effect is the Agreement between the European Union and the Kingdom of Norway on administrative cooperation, combating fraud and recovery of claims in the field of value added tax (OJ L 195, 1.8.2018, p. 3). The new regulation will enter into force the day after its publication, with effect from 1 January 2021.

To recap, the institution of tax representative is meant to guarantee that a taxable person fulfils and correctly accounts for the tax obligations he is subject to. A tax representative is jointly and severally liable for the tax obligations he accounts for on behalf and for the taxable person.



# Who can become A VAT REPRESENTATIVE

**A tax representative may be a natural person, legal person or organizational unit without legal personality that meets all of the following conditions:**

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- 1 has a place of business establishment in the territory of Poland;
  - 2 in the last 24 months has had no arrears in the payment of the various taxes that make up the state's income, in excess of 3% of the amount due separately for each tax; the percentage of arrears in the amount of tax due is determined in relation to the amount of payments due for the reporting period to which the arrear pertains;
  - 3 in the last 24 months, a natural person who is a taxable person, and for taxable persons who are not natural persons - a partner in a partnership or a trading company without legal personality, member of the governing organs, chief accountant, has not been legally convicted of a tax crime under the provisions of the Criminal Tax Code;
  - 4 is authorized to professionally provide tax advisory services in accordance with tax advisory regulations or to provide bookkeeping services in accordance with accounting regulations;
  - 5 is registered as an active payer of VAT or VAT EU.

## What should an agreement to appoint a tax representative contain

- the names of the parties, their addresses and identification for the purposes of value added or similar tax;
- the address where documentation will be kept and stored for tax purposes;
- declaration of the entity that is being appointed tax representative of its fulfilment of the conditions specified in the regulations;
- the extent of the authorization;
- the tax representative's consent to perform the duties and activities of the taxable person for whom he has been appointed, for and on behalf of the taxable person.



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