

Changes under SLIM VAT 2 as of October

I. Changes in regulations under SLIM VAT 2 package adopted by government

On 26 May 2021 the government adopted a draft bill with a package of SLIM VAT 2 solutions (SLIM -i.e. simple, local and modern). As a rule, the new solutions are to become effective as of 1 October 2021, with the exception of some regulations that will come into force on other dates. The draft amendments will now be sent to the Sejm. To recap, the SLIM VAT 1 package in effect as of 1 January 2021 (and interpreter in the minister's of finance Tax Explanations of 23 April 2021) introduced changes that cover: simple invoicing (corrective invoices without confirmation; the rules of in-minus adjustments), simplifications for exporters, the rate of 0% on advances on export of goods, extension of the deadline for the transfer of goods from 2 to 6 months, foreign exchange rates shared with income tax and a package of financial benefits (more time to account for invoices; deductibility of VAT from invoices for the resale of accommodation services; limit for low-value gifts increased from PLN 10 to 20).

The above changes have been described in our alerts and on our website.

II. Changes in regulations meant to simplify tax settlements

Among others, the SLIM VAT 2 package provides for: more VAT neutrality in international transactions; settlement of VAT on import of goods directly in tax declarations, adjustments when the initial declaration does not show the correct VAT amount; more time to use and extended application of bad debt relief; easier deduction of VAT on cars used in business operations by extending the deadline for the filing of information on first car-related expense; ability to deduct VAT after the "current" deduction deadline (higher number of reporting periods to make deduction through adjustment); optional filing of mutual supplier and buyer declaration on having chosen to have real property taxed in notarial deed; regulations on freeing funds reposted from a closed VAT account to a so-called technical account; ability to obtain consent to free funds from a VAT account if the taxable person's tax arrears have been deferred or spread into instalments; ability to use funds in VAT account to pay KRUS premium.

III. It will be clear who gets costs of supply in chain transactions

The amendments clarify the regulations on so-called chain transactions (involving at least three entities). The VAT Act will include a new regulation providing that where goods are the subject of subsequent supplies and are dispatched or transported directly from the first to the last supplier in line, and are dispatched or transported from the territory of Poland to the territory of a third country or from the territory of one member state to the territory of another member state by the first supplier, it is assumed that the dispatch or transport is allocated to that supply. The purpose of the change is to introduce a regulation that in the case of export or intra-Community supply of goods, clearly defines which supply should be allocated the dispatch or transport of goods when it is not the buyer or intermediary, but the first supplier in line (first entity in the chain) that organizes transport in a chain transaction.

The government has adopted the Ministry's of Finance simplifications under the SLIM VAT 2 package. Changes will be made to regulations on import, the issue of invoices, adjustments, VAT deductions, as well as to the split payment mechanism. Most of the regulations are to go into effect as of 1 October 2021.



IV. Changes in adjustment periods on import of services and intra-Community acquisitions of goods

The amendments add to the VAT Act a provision whereby in the case of import of services, when the tax base has decreased, then it is adjusted in the declaration for the period in which the reason for the tax base decrease occurred. Likewise, for intra-Community acquisitions of goods, when the tax base has decreased it is adjusted in the period in which the declaration for the period in which the reason for the tax base decrease occurred. In each of these cases, the buyer of the goods or services is required to reduce input VAT in the declaration for the period in which the tax base was adjusted. The purpose of the change is to clearly regulate the rules on the period in which the taxable person should settle a tax base adjustment on import of services and intra-Community acquisitions of goods.

V. Four months to adjust import of goods in declaration

The aim of another of the planned changes is to enable taxable persons who settle VAT on import of goods directly in their tax declarations to adjust the declaration in a situation where the taxable person did not settle the correct amount of the tax in the initial declaration. After the change, taxable persons will be able to file an appropriate corrected declaration within 4 months of the month in which the VAT on import of goods was to be settled. If a taxable person fails to settle the tax at the correct amount and fails to file a relevant corrected declaration by the deadline, he will lose the right to settle the tax in a declaration and will have to pay the tax with interest charges. The loss of the right to settle the tax in a tax declaration will pertain to the tax declared in the customs declaration the tax from which was not fully settled in the tax declaration. As is the case now, interest will be calculated from the day following the due date for the payment of the tax in accordance with generally binding regulations. The new regulations are to apply to import of goods, where the tax point is the first day of the month in which the amendments go into force.

VI. Declaration and taxation with VAT of a real property supply in notarial deed

The amendments will include a regulation that when a notarial deed is concluded in connection with a supply of buildings or constructions, the notarial deed may include a declaration of the parties that they have chosen to have the supply taxed with VAT. The new regulation will apply to situations when in accordance with the VAT Act, the supply of buildings or constructions consists of transferring the real property's ownership. The notarial deed identifies the parties to the transaction, as well as the real property involved in the transaction (legal title to the property, type of building along with additional non-mandatory information, e.g. how utilities are delivered). In accordance with civil law provisions, the notarial deed form must be maintained for the transfer of ownership to be valid. Importantly, however, the introduction of the proposed solution does not mean changes in the responsibilities of notaries. They will still only continue to report notarial deeds prepared in the previous month.

VII. Changes in deadlines to deduct VAT on import of services

With regard to import of services, in the new regulations the ministry proposes a return to the rules that applied prior to 2017 and doing away with having to settle output VAT within three months as a condition to deduct input VAT in the same reporting period as the declared output VAT. Under the new regulations, the right to reduce the amount of output tax by the amount of input tax on import of services will arise in the settlement for the period in which tax liability arose with regard to the acquired services, on the condition that the taxable person includes the amount of output VAT on the transactions in the tax declaration in which he is required to settle the tax. Please note that these changes only apply to import of services, and not import in general.



VIII. Change in adjustment of invoices accounted for on a “current basis”

The amendments provide for more simplifications with regard to VAT deductions. As of 1 January 2021 (SLIM VAT 1), a rule is in effect that allows a taxable person who did not deduct VAT in the declaration for the first reporting period (for which he was eligible to do so) to make the deduction for one of the next three reporting period, and for taxable persons who file quarterly, for one of the next two reporting periods. Whereas the new regulations will provide that if the limit for recognizing a purchase invoice “on a current basis” is exceeded, the taxable person will be able to adjust the tax declaration: for the period in which he became eligible to reduce the amount of input VAT, or for one of the next three reporting periods, and for taxable persons filing quarterly, in the tax declaration for one of the next two reporting periods — immediately after the reporting period in which the taxable person became eligible to reduce the amount of output VAT, no later however than within 5 years of the end of the year in which this eligibility arose.

IX. Deadline for filing VAT-26 on first car expenses extended

After the amendments, a taxable person who on a specific day of a reporting period incurred his first expense in connection with a motor vehicle used solely for business operations will no longer be required to file a VAT-26 within 7 days of that day, but rather will have until the 25th day of the month following the month in which he incurred that first expense, in conjunction with the filing of a SAF for the completed period. The deadline for the filing of VAT-26 and for the taxable person to de facto report the car related expense will in effect be moved. This will allow the taxable person to meet the obligation to file VAT-26 to become 100% eligible for the deduction. In the absence of such information for the period in which the first expenses associated with the car was incurred, the car will not be considered used solely for business operations until the filing of the declaration for the period in which that information is reported.

X. Taxable person no longer required to file duplicate invoices

The amendments propose doing away with the institution of duplicate invoice. According to the Ministry of Finance, the new SAF_VAT requirements make it unnecessary to separately identify this document. As a rule, taxable persons may place the word “duplicate” on subsequent copies of an invoice if their accounting systems make it possible to do so. Placement of the word “duplicate” is optional, as is the inclusion of the date of issue of another copy of an invoice. In consequence, the amendments are to do away with all of the regulations that currently pertain to duplicate invoices. They will, however, provide that when an invoice is damaged or lost, the buyer is to receive another copy of the invoice. If the other copy of the invoice pertains to an intra-Community supply of new vehicles, then there is no requirement to send another copy of the invoice or of the data contained therein to the relevant tax office.



XI. Fewer conditions and more time to claim bad debt relief

SLIM VAT will also bring about changes to bad debt relief. First and foremost, the requirement to register a debtor will be moved to the day preceding the day on which the creditor files his adjusted tax declaration. The condition that the creditor must be registered as an active VAT taxable person will remain. After the changes, taxable persons will continue to be able to use the so-called bad debt relief, but with fewer conditions. An adjustment will be possible when the debt: is confirmed with a legally binding court ruling and sent for collection, or entered in a national debt register, or a consumer bankruptcy has been declared with regard to the debtor based on separate regulations. In addition, the changes will extend the deadline for claiming bad debt relief from 2 to 3 years of the relevant invoice issue date counting from the end of the year in which the invoice was issued.



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XII. Numerous simplifications relating to corrective invoices

With regard to invoice regulations, the amendments eliminate the requirement to include the net per unit price on advance invoices. This is not, however, the only change. The new regulations also introduce rules that will permit taxable persons to issue invoices no sooner than on the 60th day prior to making a supply of goods or services, as well as the 60th day prior to the receipt of all or part of the payment before the supply of goods or services is made. Right now invoices cannot be issued more than 30 days before the above are performed. The amendments will also remove the requirement to place the words “CORRECTIVE INVOICE” or “CORRECTION” on corrective invoices, the reasons for the correction, the date on which the supply of goods or services is made or completed, or the payment receipt date. At the same time, a new solution is provided, i.e. a group correction of specific invoice items, as well as entire invoices. It will also be possible to make such corrections for a given period, using a corrective invoice, of invoices for individual supplies of goods or services, as well as of all supplies and services. What is more, if a corrective invoice relating to all supplies of goods or services for the given period is issued to a single customer for that period, the corrective invoice will not have to contain the names (types) of goods or services covered by the correction.

XIII. Consolidation of funds between VAT accounts at different banks

The amendments will also simplify the application of the split payment mechanism. Among others, it will be possible for taxable persons to consolidate the funds held in VAT accounts. Currently it is only possible within one bank. As a result of the proposed change, taxable persons will be able to make “own transfers” between all of their VAT accounts, including those at other banks. Another change in VAT accounts consists of expanding the use of funds held in VAT accounts by farmer’s insurance premiums, i.e. premiums paid by taxable persons who conduct business operations and pay KRUS premiums.

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