

Another package of VAT changes in April

I. Government adopts draft amendments to VAT Act implementing SLIM VAT 3 package

The draft SLIM VAT 3 package adopted by the government (in its new, early January version) contains solutions that will simplify and speed up the process of VAT reporting. The Ministry of Finance believes that the new regulations will also improve the financial liquidity of companies. This will be achieved by, among others, raising the sales limit for small taxable persons from 1,2 to 2 million euro. The new regulations will also reduce formalities relating to international trade. According to the provisions of the draft that has now been sent to the Sejm, the new regulations will go into effect as soon as on 1 April 2023, with the exception of the provisions that change VAT penalties, which will go into effect the day after the amendments are published in the Journal of Laws.

II. Higher cash method and quarterly reporting limit

Under SLIM VAT 3, the limit of sales for small taxable persons will be raised from 1,2 to 2 million euro. As a result - according to the Ministry of Finance - the number of traders eligible to use the cash method and file quarterly will increase. Small taxable persons include those VAT taxable persons who operate a brokerage company, manage investment funds, manage alternative investment funds, are agents or providers of services of a similar nature (with the exception of consignment), if the amount of commission or other form of remuneration for such services (with tax) did not in the prior tax year exceed the Polish zloty equivalent of 45 thousand euro. Amounts expressed in euro are translated into the Polish zloty using the average exchange rate announced by the National Bank of Poland for the first business day of October of the prior tax year, and rounded off to the nearest PLN 1000.

III. Opting out of obligation to print online cash register documents

The new regulations will make it easier for traders to keep a record of sales using cash registers. Among others, it will be possible to opt out of the obligation to print fiscal documents, such as those issued when cash registers are used, i.e. fiscal reports and non-fiscal documents issued by taxable persons who keep sales records using cash registers. This solution will only apply to online cash registers, including virtual cash registers. It will give taxable persons a choice of either storing fiscal reports and other non-fiscal documents in paper form, or in electronic form. It needs to be stressed that although the new solution means that taxable persons will not have to print the documents, the documents will still continue to be issued as now, i.e. in electronic form.

On 24 January 2023 the Council of Ministers adopted the minister's of finance draft bill amending the Value Added Tax Act and certain other acts (so-called SLIM VAT 3).



IV. No fees for WIS and consolidated issuing of WIS

The binding rate information (WIS) application fee will be eliminated. This, however, is not the only change in this area. The amendments are to consolidate the process of issuing binding information - binding rate information (WIS), binding excise tax information (WIA), binding tariff information (WIT) and binding origin information (WIP) - by designating the National Tax Information (KIS) director as the organ authorized to issue WIT, WIP and WIA as the first instance and to consider appeals in the second instance (currently WIS are issued by the director of KIS, WIA - by the director of the Tax Administration Chamber in Wrocław, and WIT and WIP - by the director of the Tax Administration Chamber in Warsaw, whereas WIS appeals are considered by the director of KIS, WIA appeals - by the director of IAS in Warsaw, whilst WIT and WIP appeals are reviewed by the Head of National Tax Administration).

V. Increase in threshold applied in proportionate VAT deduction

The amount that makes it possible to find that the proportion of the deduction determined by the taxable person amounts to 100 percent in situations where it exceeds 98 percent will increase from the current PLN 500 to PLN 10 thousand. This will reduce the burden on company accounting departments and decrease the number of filed VAT corrections. The regulations will also make it possible to opt out of making a correction if the difference between the initial and final proportion does not exceed 2 percentage points, as well as when the final proportion is lower than the initial proportion, and the non-deductible input VAT arising out of the difference between these proportions and the so-called multiannual correction does not exceed PLN 10 thousand.

VI. No memorandum of understanding with head of tax office

The amendments lift the requirement to prepare a memorandum of understanding with the head of the tax office with regard to the proportion of deductible input VAT for taxable persons who had no revenues in the prior tax year, or who had less than PLN 30 thousand in revenues in the prior tax year, and instead introduce a requirement to notify the head of the tax office of the adopted proportion. They also take away the requirement to agree a forecast with the head of the tax office, in the form of a memorandum, in order to calculate the amount of input VAT in the case of taxable persons required to apply the so-called pre pro-rata factor, who commence operations in the given year, and instead introduce the requirement to notify the head of the tax office of the adopted data estimate.



VII. New currency translation rules for collective invoices

When it comes to domestic transactions, the draft proposes to clarify the rules for the application of foreign currency rates when the taxable person receives a collective invoice that corrects intra-Community acquisitions of goods resulting from a discount or price reduction. In such situations, the taxable person would not be required to apply the initial exchange rate for each of the corrected transactions. If a collective invoice is issued to correct an intra-Community acquisition of goods made in a given period, the taxable person will be able to translate the amounts listed in the invoice into PLN at the average exchange rate as at the last working day preceding the corrective invoice issue date.

VIII. Elimination of requirement to receive invoices on intra-Community acquisitions

The amendments eliminate the need to have an invoice for an intra-Community acquisition of goods when deducting the related input tax. After the change, having an invoice will not be a formal condition for the deduction. As a result, input and output VAT on intra-Community acquisitions will always be reported in the exact same reporting period, and in consequence VAT on intra-Community acquisitions will be fully neutral for the taxable person. This will eliminate the need to monitor if the 3-month deadline for the receipt of the invoice has been exceeded. At present, the eligibility to deduct VAT on an intra-Community acquisition arises on the condition that the taxable person receives an invoice that documents the transaction within 3 months of the month of the tax point on the acquired goods. If the deadline is exceeded, the taxable person must reduce the input VAT in the declaration for the month in which the deadline was exceeded.

IX. VAT penalties to be individualized

Changes will also be made in regulations on VAT penalties. The tax authorities will be granted the ability to determine such penalties in an individualized manner, taking into account the specific circumstances of each case. Thus the regulations will be made compliant with the ruling issued by the Court of Justice of the European Union (CJEU) in case C-935/19. The Court found that EU regulations preclude the application of Poland's solutions relating to a 20% penalty. The Polish VAT penalty is imposed automatically, and the regulations do not allow the tax authorities to individualize the penalty, i.e. to adapt the amount of the penalty to the specific circumstances of the given case. Under the draft amendments, the tax authorities will be able to depart from the imposition of VAT penalties, but only if the following two conditions are met at the same time: existence of special circumstances leading to a conclusion that the taxable person exercised due care that could be expected of him in the given situation, and the irregularity did not result in a reduction of the tax amount due or cannot result in a reduction of that amount.

X. More payments out of VAT account

The ability to use the funds held in VAT accounts will be expanded to include other taxes and charges. The amendments are to improve the liquidity of businesses that apply the split payment mechanism. Taxable persons will also be able to use the funds held in their VAT accounts to pay: the mineral extraction tax and the related late interest charges; retail sales tax and the related late interest charges; grocery tax and the related late interest charges; flat-tax on the value of production sold and the related interest charges; tonnage tax and the related interest charges, as well as the fee referred to in Article 9 par. 11 of the Act of 26 October 1982 on sober upbringing and counteracting alcoholism (2021 Journal of Laws item 1119) and the related late interest charges (so-called mini-bottles tax).



MAREK SPORNY
Senior Tax Manager
of Tax Department BDO,
office Poznań
+ 48 61 622 57 00
Marek.Sporny@bdo.pl



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BDO spółka z ograniczoną odpowiedzialnością sp.k., ul. Postępu 12, 02-676 Warszawa;
tel.: +48 22 543 1600, fax: +48 22 543 1601, e-mail: office@bdo.pl