

SLIM VAT 3, i.e. changes not only in respect of VAT

I. SLIM VAT 3 amendments published in Journal of Laws

The Act of 26 May 2023 amending the Value Added Tax Act and certain other acts, i.e. the so-called SLIM VAT 3 package, has been published in the Journal of Laws (Item 1059). Its purpose is to further streamline accounting for value added tax and adapt Polish regulations to the judgement issued by the Court of Justice of the European Union on 15 April 2021 in case number C-935/19. Irrespective of the changes to the VAT Act, the amendments change other provisions, including the Tax Ordinance, the PIT Act or the Inheritance and Gift Act, which often have nothing to do with the SLIM VAT 3 package. The majority will go into effect as of 1 July 2023. The Act does, however, provide for numerous exceptions to this effective date.

II. New limit for small taxable persons raised to 2 million euro

The most important changes made to the Value Added Tax Act include: raising to 2 million euro the limit of the value of sales (with tax) relevant to obtaining the status of small taxable person; modifying the rules and procedures for issuing, changing and revoking binding rate information; setting the rules for the application by VAT taxable persons of the exchange rate for a corrective invoice if the initial invoice was issued in a foreign currency; modifying the rules for the disclosure by VAT taxable persons of intra-Community supplies of goods at the rate of 0%; specifying the definition of personal baggage of travelers arriving from the territory of a third country in the territory of Poland, applied for the purposes of a VAT exemption of goods imported in such baggage; lifting the requirement for VAT taxable persons to have an invoice documenting an intra-Community acquisition of goods as a condition for exercising the right to reduce the amount of output tax by the amount of the related input tax; liberalizing the conditions for a quicker refund of value added tax to taxable persons making cashless transactions; modifying the rules for the imposition of VAT penalties.

The act that introduces simplifications arising out of the SLIM VAT 3 package has already been published in the Journal of Laws, and the majority of its provisions will go into effect as of 1 July 2023. It should, however, be noted that along with these amendments come numerous changes that are completely unrelated to VAT, including the postponement by a year of the requirement to transmit tax books to the tax authorities in electronic form.



III. Higher limit for cash method and quarterly reporting

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.

IV. 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.

V. Changes not only in VAT, but also in tax procedures

The changes made as part of the SLIM VAT 3 package cover several other regulations. The most significant include: partial standardization of the rules and procedures for issuing, changing and revoking binding rate information, binding excise tax information, binding tariff information and binding goods origin information; introduction of compulsory recovery of value added tax to be declared in corrected returns filed outside of special procedures in Poland as the member state of consumption, where the place of taxation is Poland whilst the place of classification for the special procedure is another state and the return was filed in that state; broadening the catalog of funds with which a VAT account may be credited; changing the material jurisdiction of certain tax authorities; introducing a new legal institution, i.e. the expense review (applies to public finance).



VI. Electronic transmission of tax books a year later

In addition to changing VAT regulations, the SLIM VAT 3 amendments postpone by a year the effective dates of the requirement to keep books electronically and to transmit them to the tax authorities (SAF_PIT and SAF_CIT). This requirement was to apply as of 2024. It has, however, been postponed until January 2025. Favorable changes have also been made in SAF_PIT with regard to their transmission. After the change taxable persons will transmit the information the same way as in the case of SAF_CIT, only after the end of the year (and not monthly or quarterly). Certain groups of taxable persons will be exempt from the requirement to keep their books electronically - this includes farmers housewives clubs and non-governmental organizations. The minister of finance will be able to expand the group of taxable persons exempt from this requirement.

VII. Change in regulations on rehabilitation relief and child relief

The amendments have also made changes to the regulations on rehabilitation relief and child relief. In the case of the former, they broaden the catalog of persons with disabilities, which enables taxable persons to deduct expenses incurred for a loved one under rehabilitation relief. As a result of this change, taxable persons will be able to claim relief for a disabled grandchild or grandparent who is a dependent. This solution will apply to returns filed for this year. In the case of child relief, the amendments removed the income limit for parents of one disabled child. This change will also apply to returns for 2023.



VIII. Higher limits for lump-sum tax on rental income for spouses

A change has been made to the rules of taxation with lump-sum tax on registered income earned by spouses from so-called private rentals. After the change, spouses will apply the higher lump-sum rate of 12,5% of income only after exceeding the limit of PLN 200 thousand (currently PLN 100 thousand) irrespective of whether they report this income separately, or decide to have it taxed fully by one of the spouses. This solution will apply to returns for 2023. In addition, SLIM VAT 3: makes it possible to use Twój e-PIT to report income from business activities; clarifies withholding tax regulations; introduces regulations that make it possible to offset profits and losses on investments in capital funds against profits and losses from other capital investments; changes the rules for the taxation of interest on bonds to ensure the same level of taxation regardless of whether the bonds are purchased on the primary or secondary market.



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IX. Raised inheritance and gift tax free amounts

In addition, SLIM VAT 3 includes changes to the Inheritance and Gift Tax Act. Among others, it raises the inheritance and gift tax free amounts. The following tax-free amounts will apply as of 1 July 2023: PLN 36 120 - if the acquirer belongs to tax group I; PLN 27 090 - if the acquirer is classified to tax group II; PLN 5 733 - if the acquirer is part of tax group II. It should be noted that the amounts are considerably higher for closer and extended family members, and only slightly higher for unrelated parties. It needs to be stressed that there is no change in the rule that the limits apply over a period of five years.

The changes made to value added tax as part of the SLIM VAT 3 package are also discussed in detail in our previous tax alerts available on our website.



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