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Split Payment in VAT from 2018?

Tax Alert

Dear Readers,

On 12 May 2017, on the website of the Government Legislation Centre a bill amending the Goods and Services Tax Act and certain other laws introducing the so-called split payment mechanism in the VAT system has been published. According to the bill, the new mechanism would take effect from 1 January 2018.

What is split payment?

According to the bill published by the Ministry of Finance, the split payment mechanism would consist in the fact that the payment corresponding to the value of net sales would be paid by the purchaser to the supplier's bank account, and the remaining amount corresponding to the VAT amount would be paid to a supplier's special account – a VAT account. Such a split payment would be made using a dedicated transfer, in which the taxpayer would indicate: the invoice number, the supplier's VAT number, the net amount sales and the tax amount. As a result of the fact that the supplier would not receive on his bank account the entire gross amount, he would not be able to, when carrying out business transactions aimed at extorting taxes, "disappear" quickly, keeping the VAT due to the tax authority – can be read in the explanatory memorandum to the bill.

VAT account

In order to enable making payments under the new system, the bill provides for the imposition on banks and spółdzielcze kasy oszczędnościowo-kredytowe (SKOKs – credit and savings unions) the obligation to open a VAT account for each account holder being an entrepreneur.

The supplier would have a very limited possibility to freely dispose of the funds accumulated on the VAT account. A transfer from the VAT account would be possible in principle only to another VAT account, to the account of a tax office or to another account specified by the head of the tax office. In contrast, the transfer of funds held in such an account to the current account of a VAT account holder would be made only upon a reasoned request of the taxpayer, after obtaining the approval of the tax office head.

Voluntariness and incentives system

Importantly, the bill provides for the voluntary use of the split payment method, leaving the decision on its application solely to the purchaser of goods and services (not the seller). However, the proposed regulations provide for the introduction of a number of privileges to encourage entrepreneurs to use the new solution. Regulations related to the application of sanctions in the form of additional tax liability, joint and several liability provisions or regulations for penal interest rates would not apply to taxpayers using the split payment method. An additional benefit would be the ability to reduce the amount of the tax to be paid for the settlement of tax using the VAT account at an earlier date than the one specified for the payment of the tax.

Moreover, if the taxpayer decided to have the refund of the VAT excess paid to the VAT account, the refund would be made within the accelerated 25-day period, calculated from the date of submitting the settlement.

It is worth noting that the split payment mechanism would only apply to transactions made to other taxpayers and thus it would not apply to sales transactions made to consumers.

Purpose of the amendment

Split payment is one of the solutions aimed at combating fraud and tax evasion. In the opinion of the Ministry of Finance, the introduction of the mechanism will enable the tax authorities to monitor and block funds on the VAT accounts, thus eliminating the risk of the taxpayers' "disappearance" together with the VAT paid to them by contractors and not transferred to the state budget.

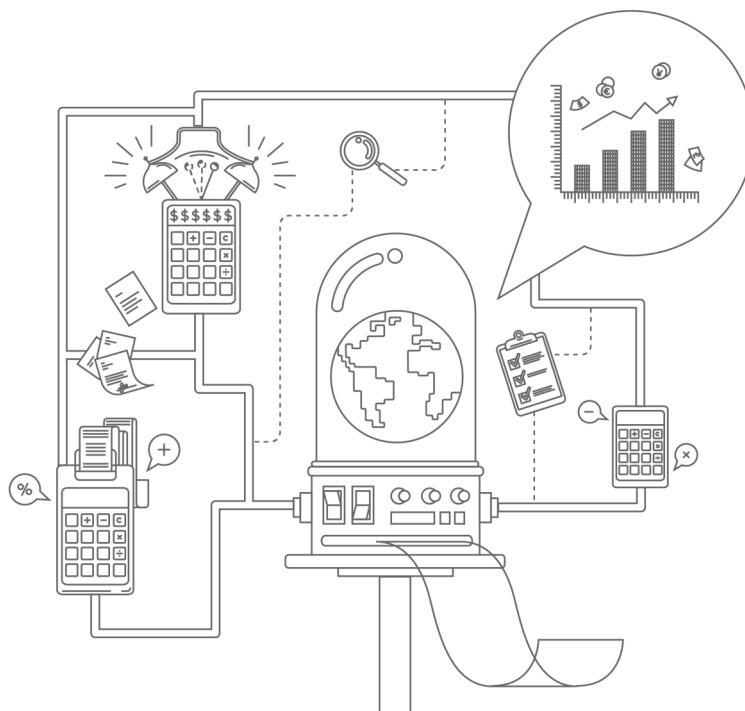
To sum up, the long-awaited draft amendment to the VAT Act introducing the so-called split payment mechanism to the Polish tax system has been finally brought to light. The published bill assumes that the new VAT payment system will apply from 1 January 2018. Keep in mind, however, that the bill is currently being reviewed. This means that it is not yet entirely clear what the final shape of the Act will be. Therefore, we encourage you to follow our publications on this issue.

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Should you wish to discuss the above mentioned amendments in detail, feel free to contact us:

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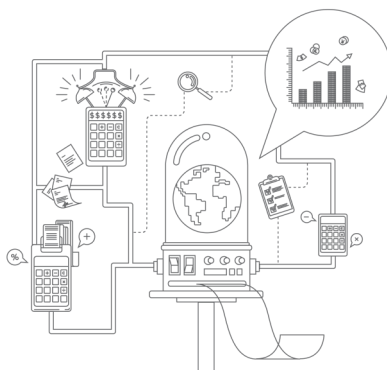
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