

VAT Amendment Bill passed in Parliament

On 1 December 2016, the Sejm (lower chamber of the Polish Parliament) passed a bill amending the VAT Act. The amendment involves a number of changes to the taxable persons' rights and obligations. The new regulations come into force on 1 January 2017.

This is the outcome of works intended to combat tax evasion and fraud. The amended act will significantly affect the taxable persons' rights and obligations. Majority of the amended regulations will take effect on 1 January 2017.

What are the changes?

1. Additional conditions for VAT refund within 25 days

The possibility to obtain a VAT refund on a fast-track basis, within 25 days, will depend on whether the amounts due under invoices have been paid to the bank account indicated in the identification notification, the amount paid in a way other than through bank account does not exceed PLN 15,000, the taxpayer has been registered over the last 12 months and has timely submitted tax returns and paid the tax, and the amount of the tax carried forward from the previous return does not exceed PLN 3,000.

2. VAT sanctions of 20%, 30% and 100% are back

The act provides for an additional sanction imposed on taxpayers who are found to have tax arrears. The sanction will be imposed at the following levels:

- 20% of the overdue amount identified: if the taxpayer files an adjusted return after the tax inspection has been finished or during the pending inspection proceedings,
- 30% of the overdue amount identified: if the authority finds the overdue amount and the adjusted return is not filed by the taxpayer,
- 100% of the overdue amount identified: if the overdue amount results from invoices which were issued by a non-existent entity, if they document transactions that have not been executed, they contain amounts which do not correspond to the actual situation or document invalid or apparent transactions.

3. Restriction on exemption of financial and insurance services

The exemption for the services listed in Article 43(13) and (14) of the VAT Act has been cancelled. This applies to the following services, without limitation: loss adjustment services, loss appraisal, arranging for assistance on the site of an accident, repairs, towing, services auxiliary to financial services, such as call centre, administrative services.

4. Extension of the reverse charge mechanism

From 1 January 2017 the reverse charge mechanism will apply to construction services if they are provided by the so-called "subcontractor". The new act does not define the term "subcontractor".

5. Extension of the list of products included under "an economically uniform transaction"

Starting from 1 January, the reverse VAT will also apply to processors if the purchase value under an economically uniform transaction exceeds PLN 20,000 net.

6. ICA and import of services no longer neutral

Input VAT for transactions subject to the reverse charge can be deducted provided that the payer has taken into account the output VAT in the relevant tax return within 3 months of the end of the month in which the tax point arose with respect to the acquired goods or services. If the taxpayer is in delay, the output VAT will have to be recognised as at the tax point date, and the input VAT on a current basis. Thus, the tax payment will be overdue and interest for delay will have to be paid.

7. Electronic returns become obligatory for all

The act requires that from 1 January 2017 the electronic returns will have to be filed by all taxpayers obliged to register as VAT EU taxpayers who are suppliers or buyers of services subject to reverse charge mechanism; who are obliged under the income tax regulations to file returns, information and annual tax calculations via means of electronic communication.

8. Extension of the buyer's joint liability

The joint liability will be extended to cover additional types of products, including rapeseed oil, stretch foil, HDD or SSD discs. Also, the new regulations provide for additional conditions for exemption from this type of liability, as well as additional requirements to be met by a seller submitting a guarantee deposit.

9. Joint liability of the representative registering a new VAT payer

The representative who registers a new VAT payer will be jointly liable for overdue tax amounts of such an entity which will arise during the period of 6 months from registration - up to the amount of PLN 500 thousand.

10. Conditions for striking a payer off the VAT register

The tax authority will be entitled to strike a taxable person off the VAT register in the event of suspension of business activity, failure to submit VAT returns or failure to show sales and purchases, issuance of fictitious invoices or in a situation where the taxpayer knew or had reasonable grounds to believe that the suppliers or buyers participated in a tax fraud.

Given the foregoing, we recommend that the planned amendments be promptly reviewed in respect of your business activity. We will be happy to answer any questions arising from new regulations.

KSP contact:



Magdalena Patryas

Partner

T: +48 32 731 68 53

E: magdalena.patryas@ksplegal.pl

KSP Legal & Tax Advice

ul. Chorzowska 150

40-101 Katowice

www.ksplegal.pl

Elżbieta Lis

Partner

T: +48 32 731 68 50

E: elzbieta.lis@ksplegal.pl

F: +48 32 731 68 51

E: kancelaria@ksplegal.pl

www.ksplegal.pl/blog-o-podatkach

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