

New amendment of the VAT Act

The Polish Parliament recently adopted amendments to the VAT Act. The new regulations are still waiting for President's signature and publication in the Official Journal of Law. However, we do not expect any changes or delays. Therefore, we present below the most important amendments affecting foreign companies.

The majority of new regulations will come into force on 1 January 2017.

Submitting e-declarations

- Beginning from 1 January 2017 the taxpayers will be obliged to submit VAT declarations electronically.
- The above obligation will be postponed till 1 January 2018 for the taxpayers who are not:
 - required to register for intra-Community transactions (so called VAT-EU payers);
 - carrying out transactions subject to obligatory local reverse charge (e.g. concerning scrap, recyclable materials, smartphones);
 - obliged to submit on the basis of other regulations PIT or CIT declarations electronically.

VAT rates remain unchanged

- The 23% and 8% tax rates will be still applicable till the end of 2018.

Deregistration from VAT and refusal to register

- Tax Office will deregister from VAT the company which:
 - does not submit VAT returns or submits nil VAT returns for the 6 consecutive months, or
 - issues "empty" invoices, or
 - knows or should have known that it is participating in the tax fraud.

The deregistration can be avoided if e.g. submitting nil VAT returns for the 6 consecutive months results from the character of the company's economic activity or issuing of the "empty" invoice was a result of the honest mistake.

- Tax Office will deregister the company from intra-Community transactions (i.e. as VAT-EU payer) if it does not submit EC Sales and Purchase Lists or submits nil EC Sales and Purchase Lists for the 3 consecutive months. The deregistration can be avoided if the above results from the character of the company's economic activity.
- Tax office will have a right to refuse to register the entity if it does not exist or cannot be contacted.

New penalties under VAT Act

- There will be additional penalties in case of reporting incorrect input VAT. The amount of the penalty will be:

- 20% of the amount of output VAT or surplus of input tax over output tax – if after the tax control, the company agrees with the findings and submits the correction of the VAT return,
- 30% of the amount of output VAT or surplus of input tax over output tax – if after the tax control, the company disagrees with the findings and the amount of outstanding VAT or overestimated amount of refund of surplus of input tax over output tax will be stated in the decision of the tax office at the end of the tax proceeding,
- 100% of the input VAT reported from the “empty” invoices.

There will be no additional penalty if the company corrects the mistakes on its own, before the tax office starts the tax control.

Limitation of possibility to submit quarterly VAT settlements

- The companies with the annual gross turnover over EUR 1.2m or being VAT registered in Poland for a period shorter than 1 year, will not be able to file quarterly VAT settlements. They will have to submit monthly VAT returns.
- The above regulation will also concern entities registered for VAT after 30 September 2016. Hence, these entities will also have to submit monthly VAT returns since the settlement for January 2017.

ICA and reverse charge

- Local reverse charge will apply to:
 - construction services performed by subcontractors and listed in Appendix 14 to the VAT Act (in total 48 different types of construction services);
 - transactions concerning processors (they will be subject to the same provisions that currently apply to the sale of portable computers, smartphones and game consoles);
 - some additional silver and gold products which will be added in Appendix 11 to the VAT Act.
- Intra-Community acquisitions and reverse charge transactions will have to be settled not later than 3 months after the end of the month in which the tax point arose. Otherwise the output tax will have to be reported in the correction of the period in which the tax point arose, but the input VAT will be settled on the on-going basis.

Joint and several liability of attorneys registering VAT payers

- Representatives registering VAT payers will be jointly and several liable for any fraudulent actions of these VAT payers resulting in tax arrears during first six months after registration. Representatives will be liable for the amount up to PLN 500 000.

The alert presents the issues that we believe may be of interest to you. The information in the alert is of a general nature and it does not cover all changes resulting from the amendment of the VAT law. Before making any decision or action, as well as in case of any questions or concerns, please contact one of our tax advisors on +48222503100 (email:biuro@itadp.pl).
