

# Companies can deduct VAT on employee business travel expenses

## I. VAT on employee business travel expenses deductible

The company is entitled to deduct input VAT arising out of VAT invoices issued by suppliers to document the acquisition of goods and services by its employees during business travel on the company's behalf. However, the company's actions consisting of recording the invoices that document the acquisition of goods or services in the VAT purchase register and SAF and showing the employee as a contractor (supplier) will be incorrect – states an interpretation issued by the Director of National Tax on 9 May 2022 (number 0111-KDIB3-1.4012.74.2022.2.ICZ). The interpretation related to expenses incurred by employees during business travel (e.g. purchases of fuel for company cars), documented with invoices where the company was listed as the recipient (buyer).

## II. Company employee does not act as a separate entity

As stressed in the interpretation, as a legal entity the company is empowered for the purposes of civil law transactions. It is a fictitious trader formed in order to perform business operations under its given name. In every case the trader – company – intends to achieve a specific goal or goals with the help of its employees. Every company has an organized team of people and an organizational structure to enable it to conduct business operations. Thus the activities performed by the company's (trader's) employees are activities performed by the company (trader). As a result, an employee working at a given company does not act as a separate legal entity.

Companies are entitled to deduct input VAT arising out of VAT invoices issued by suppliers to document the acquisition of goods and services by company employees during business travel on the company's behalf. In such cases it is the company that is the buyer and should be listed as such in both the VAT record and SAF.



### III. Employee is not a contractor as defined in VAT regulations

According to its dictionary definition, contractor is one of the parties concluding an agreement; a party to the agreement, partner, cooperator, associate. In view of this, a company employee does not meet the definition of contractor referred to in Article 109 par. 3 of the VAT Act. A contractor is not an employee who has been hired by the company and who acquires goods and services on the company's behalf in order for it to perform business operations. A supplier of goods or services documents transactions concluded for the benefit of the company, whilst an employee of the company only temporarily incurs the costs of the transaction for which he is immediately reimbursed.

### IV. Purchase invoice must list the company as the buyer

The name and tax identification number (NIP) of the taxable person supplying the goods or services must be listed on the invoice and in the VAT record. Article 109 par. 3 of the VAT Act directly points to the obligation to keep a record containing data that will allow for the proper settlement of the tax and preparation of a recapitulative statement. In particular, the record should contain the data of the contractors and evidence of purchases. Such evidence includes a correctly issued invoice documenting an economic event in the form of a supply of goods or services to the company. In such cases, it is the contractor and not the company's employee that issues the invoice.





## V. Company, not employee data to be listed in the VAT record and SAF

The company is eligible to deduct the input VAT arising out of VAT invoices issued by contractors to document the acquisition of goods and services for the company by its employees. The company is an entity with a full right to deduct the expenses if they are used solely for the purposes of taxable activities. In consequence, the company's actions consisting of recording the invoices that document the acquisition of goods or services in the VAT purchase register and SAF and showing the employee as a contractor (supplier) will be incorrect. Such invoice is recorded incorrectly as evidence of a purchase, whilst the record does not meet the requirements of the applicable regulations. The same goes for the SAF.



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