

Ministry of Finance announces SLIM VAT 3 simplification package

I. Consultations are ongoing

The Ministry of Finance has published a package of value added tax simplifications SLIM VAT 3. The proposed changes have been grouped into 7 areas: improving the financial liquidity of businesses; VAT in international trade – fewer formalities; wider scope of VAT exemptions; fewer adjustments and friendly VAT reporting; simpler invoicing and fewer obligations; consolidation and consistency of binding information – simpler and clearer access to tax information. The proposed changes would go into effect in the last quarter of 2022. They have been submitted for extensive consultation to be completed on 14 February.

II. Lifting of requirement to issue advance invoices

The proposed changes lift the requirement to issue advance invoices, if the taxable person receives all or part of an advance payment in the reporting period (the same month) in which the tax liability was formed (e.g. when the goods were sold) with respect to activities on account of which he received the payment. As a result, taxable persons will have a choice to either document the advances they receive with invoices, or to issue a single invoice that, in addition to the date on which the given supply of goods or services was made (as long as such a date has been specified and is different from the invoice issue date), will also contain the advance payment receipt date (as long as such a date has been specified and is different from the invoice issue date).

As part of the SLIM VAT 3 package the Ministry of Finance wants to raise the small taxable person sales limit from 1 200 000 euro to 2 000 000 euro. As a result, more taxable persons would be able to report using the cash method and on a quarterly basis. Those are not, however, the only simplifications. Among others, the requirement to issue advance invoices would be lifted.

III. More payments out of VAT account

The amendments are to improve the liquidity of businesses that apply the split payment mechanism. Taxable persons will also be able to use the funds held in their VAT accounts to pay: the mineral extraction tax and the related late interest charges; retail sales tax and the related late interest charges; grocery tax and the related late interest charges; flat-tax on the value of production sold and the related interest charges; tonnage tax and the related interest charges, as well as the fee referred to in Article 9 par. 11 of the Act of 26 October 1982 on sober upbringing and counteracting alcoholism (2021 Journal of Laws item 1119) and the related late interest charges (so-called mini-bottles tax).



IV. Higher cash method and quarterly reporting limit

The draft calls for increasing the limit of sales that makes taxable persons eligible for the status of small taxable persons. Calculated inclusive of tax, it is to increase from 1,2 million euro to 2 million euro. As a result, the cash method, i.e. a situation when VAT is only reported in the period in which payment was made by the client, will become more readily available. This means that more taxable persons will also be able to file their tax declarations quarterly. It needs to be noted that, in consequence, this amount will be equal to the amount that makes taxable persons eligible for lump-sum income tax. It is the provisions of the VAT directive that allow for the limit to be raised to 2 million euro. Once the regulations change, Poland will have reached the top of that limit.

V. Wider scope of certain VAT exemptions

The amendments extend the tax exemption to special investment fund management services defined by other member states. In consequence, the VAT exemption will also cover investment funds established in other EU member states. The exemption will therefore cover management services with respect to investment funds, alternative investment funds and collective portfolios of securities - as defined in the regulations on investment funds and on the management of alternative investment funds and special investment funds in other member states.

VI. New currency translation rules

The ministry also intends to introduce new methods for the translation of currencies for corrective invoices when the initial invoice was issued in a foreign currency. The exchange rate used to translate a correction of the tax base in a downward corrective invoice will generally be the same as the rate used in the initial invoice. For example, a taxable person who invoiced a service using an exchange rate from 1 October 2021 will apply the same rate in an invoice that corrects the initial invoice. For an upward correction, the taxable person will use the average exchange rate announced for the currency by the National Bank of Poland (NBP) for the last business day preceding the day on which the reason for the increase in the tax base occurred. The taxable person will also be able to choose to translate such amounts using the last exchange rate announced by the European Central Bank as at the last day preceding the day on which the reason for the increase in the tax base occurred. In such cases, currencies other than the euro will be translated using each currency's euro exchange rate. Tax base amounts expressed in a foreign currency in a corrective invoice issued prior to the tax point (and only such invoice) to an initial invoice in which the taxable person had applied such tax base translation rules when the tax base is increased, will be translated using the given currency's average exchange rate adopted for the tax base that is being increased.



VII. New currency translation rules for collective invoices

When it comes to domestic transactions, the draft proposes to clarify the rules for the application of foreign currency rates when the taxable person receives a collective invoice that corrects intra-Community acquisitions of goods resulting from a discount or price reduction. In such situations, the taxable person would not be required to apply the initial exchange rate for each of the corrected transactions. If a collective invoice is issued to correct an intra-Community acquisition of goods made in a given period, the taxable person will be able to translate the amounts listed in the invoice into PLN at the average exchange rate as at the last business day preceding the corrective invoice issue date.

VIII. Change in intra-Community supply reporting date

Under currently binding regulations, if a taxable person fails to produce the required documents confirming an intra-Community supply of goods within the specified time, he is required to disclose the transaction as a domestic supply (and in consequence apply the appropriate tax rate, i.e. 23%). Once, however, the documents confirming the intra-Community supply are received, he can adjust the transaction accordingly and apply the rate of 0%. In such cases, the regulations require the taxable person to report the intra-Community supply transaction in the declaration for the period in which it was made. The proposed change will allow the taxable person to report (correct) such intra-Community transactions in the declaration for the period in which the related tax liability arose.

IX. Elimination of requirement to receive invoices on intra-Community acquisitions

The amendments eliminate the need to have an invoice for an intra-Community acquisition of goods when deducting the related input tax. After the change, having an invoice will not be a formal condition for the deduction. As a result, input and output VAT on intra-Community acquisitions will always be reported in the exact same reporting period, and in consequence VAT on intra-Community acquisitions will be fully neutral for the taxable person. This will eliminate the need to monitor if the 3-month deadline for the receipt of the invoice has been exceeded. This is because currently the eligibility to deduct VAT on an intra-Community acquisition arises on the condition that the taxable person receives an invoice that documents the transaction within 3 months of the month of the tax point on the acquired goods. If the deadline is exceeded, the taxable person must reduce the input VAT in the declaration for the month in which the deadline was exceeded.

X. Increased threshold on proportional VAT deductions

The Ministry of Finance intends to raise the amount for recognizing that the proportion specified by the taxable person amounts to 100% in situations when that proportion has exceeded 98%. The amount is to increase from the current PLN 500 to PLN 10 000. Today, a taxable person who has determined that his proportion amounts to 98,5%, whilst the amount of VAT on purchases which cannot be deducted amounted to PLN 500 for the year, must apply a proportional deduction to purchases associated with his taxable and exempt activities – i.e. is not eligible for a 100% VAT deduction. After the threshold is increased to PLN 10 000, such taxable person will be able to find that in this case the proportion is 100% - and thus deduct the entire VAT. The draft provides that the new limit would be used to the proportion adopted for 2022, i.e. to reporting periods from the beginning of 2022. An appropriate transitional provision will be introduced to that end.

XI. Opting out of final proportion adjustment

At this time each and every difference (of even one percentage point) between the initial and final proportion of deductible input VAT requires the taxable person to make an annual adjustment of the deducted VAT. The initial deduction is adjusted if it is higher or lower than the deduction for which the taxable person is eligible. After the SLIM VAT 3 package goes into effect, taxable persons would be able to (voluntarily) opt out of the adjustment if the difference does not exceed 2 percentage points and the amount of non-deductible input VAT does not exceed PLN 10 000 (the second condition only applies to cases where the actual proportion is lower than the forecast). Right now taxable persons are required to make adjustments even if the difference between the initial and final proportion is very small.

XII. Changes in joint and several liability for franchises

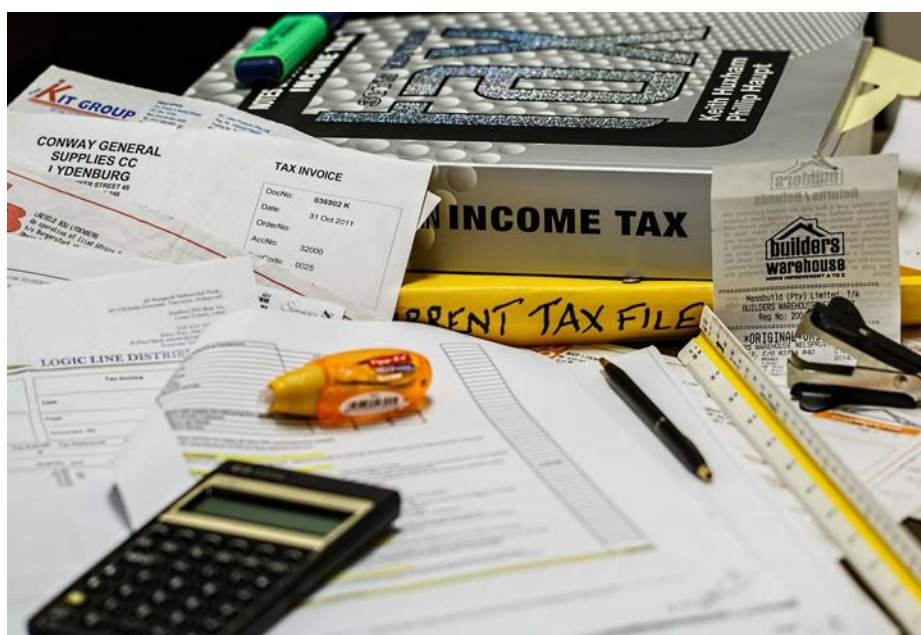
Today, “third parties” can be relieved of joint and several liability by making a payment to the supplier’s VAT account or by refunding a received payment to the VAT account of the taxable person from whom that payment was received. The proposed changes add a third method of relief from joint and several liability to be used in situations when a taxable person changes the factor, i.e. after an arrangement (agreement) is concluded between the factor and the client, leading to a change in the creditor of the debts arising out of an agreement for the supply of goods or services, covered by the factoring agreement. As a result, the taxable person would be relieved of joint and several liability following a payment to the VAT account of the taxable person that is the financial institution named in the debt acquisition agreement concluded between that financial institution and the supplier or buyer, at the amount received in the VAT account.

XIII. Elimination of need to print documents by online cash registers

The proposed amendments eliminate the requirement to print documents issued using online cash registers – i.e. fiscal reports and non-fiscal documents issued by taxable persons who record sales on online cash registers. This solution would only apply to online cash registers, including virtual cash registers. It would allow taxable persons to choose if they want to store fiscal reports and other non-fiscal documents in paper form, or only in electronic form. It needs to, however, be stressed that even though this solution will mean that taxable persons will not be required to print the documents, they will continue to be issued as before, i.e. in electronic form.



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XIV. Consolidation and standardization of binding information

The proposal also provides for two changes to the binding information system. The first is consolidation when it comes to issuing binding information, through the appointment of National Tax Information director (“KIS director”) as the organ authorized to issue WIT (binding tariff information), WIS (binding rate information) and WIA (binding excise tax information) as the first instance and to handle appeals as the second instance, in order to make it easier for businesses to obtain binding information in one place and to standardize binding information nationwide. The second is the standardization of the tax system in the area of issuing WIS and WIA.

The information presented herein does not constitute comprehensive information or opinion. Consult your adviser before making any decisions.

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