

The government is almost done working on SLIM VAT 3

I. The government is working on another VAT simplifications package

Consultations on the draft of a new package of changes in value added tax, referred to as Slim VAT 3, are to be completed by the end of August. The package is to introduce more simplifications in accounting for the tax. Among others, it provides for the introduction of new rules for the translation of currencies for corrective invoices, lifting the requirement to print documents by online and virtual cash registers and liberalization of conditions for so-called cashless taxable persons (VAT refund within 15 days). In addition, the draft also calls for numerous simplifications to the VAT e-commerce package. The new regulations will also impact businesses that apply split payment. Most of the new regulations are to become effective with the start of 2023.

II. Small taxable persons with a much higher sales limit

The limit of sales for so-called small taxable persons will be raised to 2 million euro (i.e. the same as the limit for small taxable persons in income taxes). This means that more taxable persons will be able to file quarterly. Currently, the status of small taxable person is held by those whose sales (inclusive of VAT) did not in the previous year exceed the PLN equivalent of 1,2 million euro or 45 thousand euro - for, among others, taxable persons who operate brokerage companies or manage investment funds and whose remuneration is commission based. A taxable person who meets the criteria is eligible to account for VAT using the cash method (instead of the accrual method) and file quarterly. Amounts expressed in euro are translated using the average exchange rate announced by the National Bank of Poland for the first working day of October of the previous tax year, rounded off to PLN 1000.

A package of changes, referred to as SLIM VAT 3, is to be considered by the government in September.

By introducing the new regulations, 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 and proportional VAT simplified.



III. Significantly simplified application of proportion and pre-proportion

The draft calls for the introduction of numerous simplifications in the application of proportion and pre-proportion. Above all, the draft raises to PLN 10000 from the current PLN 500 the limit for recognizing that the proportion specified by the taxable person amounts to 100% - in situations when that proportion has in fact exceeded 98%. Also planned is the introduction of an option to opt out of making an adjustment. This would apply in situations when the difference between the initial and final proportion does not exceed 2 percentage points (taking into account the insignificant value of this amount). The draft also provides for lifting the requirement to agree the deductible input VAT proportion with the tax authorities in the form of a protocol. Instead, a requirement will be introduced to notify the tax authorities of the adopted proportion or pre-proportion. Today, certain taxable persons required to apply a pro-rata and pre pro-rata factor are obligated to agree with the head of the tax office in the form of a protocol the deductible proportion of input VAT, it is not possible for a 100% deduction to be made by taxable persons whose proportion has exceeded 98% whilst the amount of VAT on purchases that cannot be deducted amounted to PLN 500 or more for the year, there is a requirement to make a year-end adjustment of deducted VAT even if the difference between the initial and final proportion is very small.

IV. Individualized VAT penalties

Changes will also be made in regulations on VAT penalties. The tax authorities will be granted the ability to determine such penalties in an individualized manner, taking into account the specific circumstances of each case. Thus the regulations will be made compliant with the ruling issued by the European Court of Justice (ECJ) in case C-935/19. The Court found that EU regulations preclude the application of Poland's solutions relating to a 20% penalty. The Polish VAT penalty is imposed automatically, and the regulations do not allow the tax authorities to individualize the penalty, i.e. to adapt the amount of the penalty to the specific circumstances of the given case. Under the draft amendments, the tax authorities will be able to depart from the imposition of VAT penalties, but only if the following two conditions are met at the same time: existence of special circumstances leading to a conclusion that the taxable person exercised due care that could be expected of him in the given situation, and the irregularity did not result in a reduction of the tax amount due or cannot result in a reduction of that amount.

V. Changes in joint and several liability for franchises

The amendments also provide for simplifying the procedure for relieving third parties of joint and several liability when payments are received in a VAT account. 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. According to the Ministry of Finance, the entire process of changing the factor is time consuming and prolongs the flow of VAT funds. This is to be changed by the amendments, which will introduce a new option to obtain relief from liability in such cases.



VI. 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.

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 working day preceding the corrective invoice issue date.



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

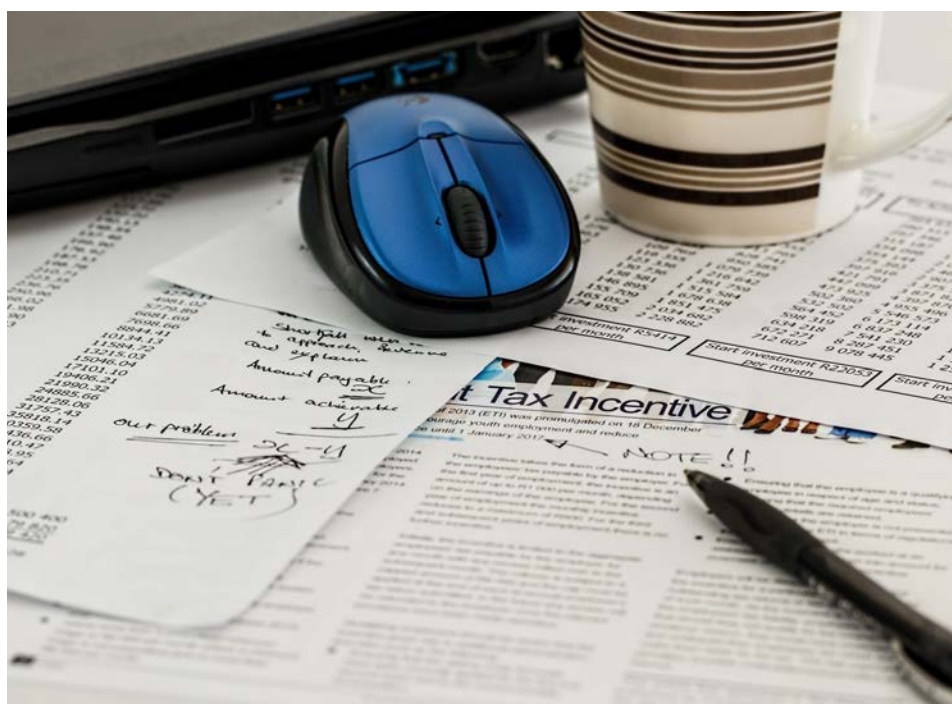
The amendments eliminate the requirement to print documents issued using online cash registers - i.e. fiscal reports and non-fiscal documents issued by taxable persons who record sales on online cash registers. This solution would only apply to online cash registers, including virtual cash registers. It will 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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IX. 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.



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