

Mandatory VAT Split Payment Mechanism in Poland

On February 18, 2019, the European Council issued the implementing decision authorizing Poland to introduce a special measure derogating from Article 226 of Directive 2006/112/WE with respect to the VAT system. The decision enables the Polish government to introduce the mandatory split payment mechanism applicable to selected goods and services. The decision is effective as of March 1, 2019 until February 28, 2022.

It is to be expected that relevant national regulations introducing the mandatory VAT split payment mechanism will enter into force as of July 2019.

MAIN ASSUMPTIONS

According to the decision issued by the European Council, the main assumptions of the mandatory VAT split payment mechanism to be introduced in the Polish VAT regulations are as follows:

- mandatory VAT split payment will apply only to transactions between **taxpayers (B2B)**, subject to VAT taxation in Poland;
- the obligation to apply the split payment mechanism will include **selected goods and services**;
- mandatory VAT split payment will apply only to transactions settled using **bank transfers**;
- **foreign entities** involved in transactions subject to VAT taxation in Poland will be obliged to **open a bank account in Poland**;
- an obligation to place **information** about using the mandatory VAT split payment **on the invoice** will be introduced.

According to the Polish government, the mandatory VAT split payment mechanism will considerably reduce the scale of VAT frauds. Pursuant to the mandatory VAT split payment model, the VAT amount deposited on the taxpayer's separate VAT bank account can be used by the taxpayers for a restricted purpose only, namely to pay the VAT tax to tax authorities or to pay VAT tax on invoices from vendors/service providers. By intention, this model to a greater extent ensures that the tax authorities will receive the entire VAT amount due to be paid by the taxpayer to the Tax Authorities.

On July 1, 2018, Poland introduced a voluntary split payment mechanism. The position of the government is that areas at particular risk of VAT frauds, where fraud cases have been discovered for years, require the introduction of the mandatory split payment mechanism. These areas include economy sectors such as steel, scrap, electronic equipment, gold, non-ferrous metals, fuels and plastics.

THE VAT SPLIT PAYMENT MECHANISM

The split payment mechanism is an alternative method of collecting VAT levy. As per standard procedure, the seller (VAT taxpayer) receives from the customer the total gross amount, including tax base and due VAT tax applicable to the particular transaction. The seller then includes the transaction in his periodic VAT return. Based on the return, the taxpayer has to either pay the VAT tax to the tax

authorities, or receive the tax return from the tax authorities.

The introduction of the split payment changes this (standard) chain of transactions, as it is necessary to split payment into two amounts – due VAT tax and the taxable base. If the vendor or service provider is subject to regulations on the split payment, he will be obliged to have – apart from a regular bank account – a separate, blocked VAT bank account. That separate account can be used only to collect VAT from customers and pay VAT to vendors/service providers. In that case, the buyer pays the taxable base to the vendor/service provider, usually to the regular bank account, while the VAT due on the supply shall be paid to the blocked VAT bank account.

MAIN RULES OF THE MANDATORY VAT SPLIT PAYMENT MECHANISM

The split payment model shall apply to supply of specified goods and provision of specified services between taxpayers (B2B) and will apply only to electronic bank transfers, i.e. will not apply to other forms of payment. The bank will serve as the intermediary and take actions to transfer the amount paid by the client to relevant accounts of the vendor/service provider, namely: taxable base to the entrepreneur's regular account, and the VAT amount – to the entrepreneur's blocked VAT bank account.

The taxpayer shall be the owner of the funds on the blocked VAT bank account, but the use of the funds there will be restricted by law – in principle, they can be used only to pay due VAT to tax authorities or VAT due on invoices from vendors/service providers.

The mandatory split payment will also apply to **foreign entities not established in Poland** that will be required to have a bank account in line with the Polish banking law. Pursuant to the planned regulations, entrepreneurs not established in Poland will not incur any additional costs related to opening a bank account in Poland, as they will be able to open and have a bank account in Poland for free.

In order to ensure efficient functioning of the split payment mechanism, the invoice issued by the vendor or service provider will have to include information about using the mandatory split payment mechanism.

GOODS AND SERVICES SUBJECT TO MANDATORY VAT SPLIT PAYMENT MECHANISM

The mandatory VAT split payment mechanism will apply to the following goods and services.

Goods:

- steel products (e.g. pipes and tubes, rods, angles, sections), ferroalloys,
- gold, silver, platinum (unwrought or in the form of intermediate products or in the form of powder),
- base metals coated with precious metals,
- other non-ferrous metals (aluminum, lead, zinc, tin, copper, nickel),
- some products made of copper and its alloys,,
- electronic processors,
- computers, laptops, smartphones, video game consoles,
- television sets,
- HDD and SSD disks,
- digital cameras and video cameras,
- jewelry and goldsmith's articles,
- waste, scrap, recyclable materials,
- fuel and heating fuels, lubricating oils,
- inks and toners for printers and photocopiers,
- hard and brown coal,
- some car and motorcycle parts.

Services:

- regarding the transfer of greenhouse gas emission allowances,
- construction, finishing, installation works.

The decision of the Council of the European Union includes a detailed list (a total of 152 items) of goods and services subject to the mandatory VAT split payment mechanism.

CONTACT US

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Łukasz Korbas

Partner

+48 603 558 869

lukasz.korbas@tpa-group.pl



Katarzyna Samelak

Manager

+48 787 094 820

katarzyna.samelak@tpa-group.pl

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