

White list of taxpayers

As of September 2019 the Polish lawmakers are introducing the "white list of taxpayers". It is a list of VAT payers, which contains a number of important information about entities conducting business activity in Poland. According to the assumptions presented by the Ministry of Finance, the "white list of taxpayers" will enable taxpayers to quickly and comprehensively verify the registry data of counterparties.

It should be noted that the introduction of the "white list of taxpayers" will mean further administrative obligations for entrepreneurs, as well as the risk of sanctions.

KEY ASSUMPTIONS

The white list of taxpayers will include the current status of the taxpayer in terms of registry data. The records will be available in electronic form on the website of the Ministry of Finance. Access to the records will be free of charge. The taxpayers' data in the register will be updated on an ongoing basis, i.e. once every working day. Information about counterparties will be available on a given day, for a period of five years back and it will correspond with the limitation period as per the tax law. After a period of 5 years, information about a given taxpayer will be automatically removed from the records. **The regulations introducing a white list of VAT taxpayers will come into force on September 1, 2019.**

WHITE LIST OF TAXPAYERS AS PART OF DUE DILIGENCE

The "White List of Taxpayer" is another element of the due diligence mechanism aimed at reducing tax fraud.

The introduction of the white list of taxpayers will require taxpayers to verify vendors they already have a business relationship with or plan to establish a business relationship with. Pursuant to the guidelines of the Ministry of Finance, in order to exercise due diligence, a taxpayer should verify, among others, the following:

- the registration of the counterparty in the National Court Register (KRS) or the Central Register and Information on Business Activity (CEIDG),
- registration of the counterparty as an active VAT taxpayer,
- whether the counterparty has the required concessions and permits,
- whether the counterparty has been entered by the Head of the National Revenue Administration into the list of entities which have been deleted by the head of the tax office from the VAT register or which have not been registered by the head of the tax office,
- persons signing agreements within the scope of their authorization to conclude transactions on behalf of the counterparty.

It should be noted that the fulfillment of due diligence requirements requires a significant amount of work on the part of taxpayers and sometimes introducing changes in their accounting systems.

DATA ON THE WHITE LIST OF TAXPAYERS

The “White list of taxpayers” will include the following information about the taxpayer concerned:

- name or first name and surname,
- the number by which the entity is identified for VAT purposes,
- REGON identification number,
- PESEL number,
- number in the National Court Register,
- address of the registered office or permanent place of business activity,
- names and surnames of persons forming the body authorized to represent the business entity and their tax identification numbers or PESEL numbers,
- names and surnames of proxies and their tax identification numbers or PESEL numbers,
- name and surname or name of the partner and their tax identification number or PESEL number,
- date of registration, refusal of registration or deletion from the register and restoration of registration as a VAT taxpayer,
- legal basis for registration, refusal of registration or deletion from the register and restoration of registration as a VAT taxpayer,
- numbers of settlement accounts - indicated in the identification entry or update entry and confirmed using the IT System of the Clearing House (STIR).

NEW OBLIGATIONS AND VAT PENALTIES

The new regulations introduce the obligation to verify, **prior to making a transfer** to a given counterparty, whether the bank account number indicated on the invoice is disclosed on the white list of taxpayers.

If the transfer is made by the buyer to a bank account undisclosed on the white list, and the counterparty (vendor) fails to pay the amount of VAT to the tax office, the buyer **will be jointly and severally liable with the seller** for the VAT shown on the invoice.

INCOME TAX PENALTIES – TRANSFERS OF MORE THAN PLN 15,000

In addition to VAT sanctions, the regulations also introduce income tax sanctions. In the case of bank transfers, where **their value exceeds PLN 15,000.00, the taxpayer will not be able to include the expense as a tax deductible cost** if the payment was made to the bank account of the vendor, which is not disclosed on the white list of taxpayers.

Pursuant to the adopted regulations, the sanctions will become effective as of January 1, 2020.

AVOIDING PENALTIES

A taxpayer will be able to avoid VAT and income tax penalties provided that, within **three days** of making the transfer to a bank account not disclosed on the white list of taxpayers, the taxpayer **notifies the tax office head relevant for the issuer of the invoice** about the situation. The notice must contain at least the following elements:

- name and address of the company's registered office,
- details of the issuer of the invoice as indicated on the invoice,
- number of the account to which the payment has been made,
- amount of the payment made to that account, as well as the date of the transfer order.

The regulations also provide for a possibility to **exclude joint and several liability in VAT**, provided that the **split payment mechanism is applied**. In this situation, the funds are accumulated in a separate bank account with limited possibilities to use (only tax liabilities can be settled).

CONTACT US

This document has been prepared for information purposes only and is of a general nature. Before taking any action pursuant to the above information, we recommend that you obtain a valid opinion of TPA experts.



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