

SLIM VAT 2 package

The amendment to the VAT Act introducing the SLIM VAT 2 package has been signed by the President. It contains a dozen or so changes aimed at streamlining VAT settlements. The new regulations will facilitate, among others, exercising the right to deduct input tax and modify the rules and extend the deadline for applying the bad debt relief.

Bad debt relief

The amendments introduced with regard to the application of the bad debt relief in VAT are an attempt to adjust Polish regulations to the ruling of the Court of Justice of the European Union (CJEU) of October 15, 2020, case C-335/19, where the Court stated that the additional conditions, on which the possibility of reducing the VAT taxable base depended, were incompatible with the VAT Directive. The disputed condition concerned the status of the debtor – Polish regulations required the debtor to be registered as a VAT payer and not be under bankruptcy or liquidation proceedings.

Pursuant to the new regulations, the bad debt relief will be available if:

- the taxpayer is registered as an active taxpayer of VAT on the day preceding the day of submitting the tax return to which the taxpayer will make the adjustment,
- in the case of supply of goods or provision of services to an entity other than a registered active VAT taxpayer:
 - the receivable was confirmed by a final court decision and subjected to enforcement proceedings, or
 - the receivable has been entered in a national debt register, or
 - the debtor was declared a consumer bankrupt.

Pursuant to the new regulations, the condition that the debtor be registered as a VAT payer and not be in the process of bankruptcy or liquidation proceedings has been abolished. However, it is impossible not to notice the lack of precise provisions and the possibility of different interpretations of the new condition for applying the bad debt relief, i.e. entering the receivable in the “register of debts kept at the national level”.

SLIM VAT 2 also extends the deadline for taking advantage of the bad debt relief from two to three years, calculated from the end of the year in which the invoice documenting the debt was issued.

VAT deduction on intra-Community acquisition of goods and import of services

The new regulations implement into the Polish VAT system presumptions resulting from the ruling C-895/19, in which the CJEU decided that Polish regulations are incompatible with the VAT Directive. The current regulations allow to deduct input VAT on intra-Community acquisition of goods or services, if the output tax is settled in the tax return within three months from the end of the month in which the tax obligation arose.

	<p>Pursuant to the new regulations, the right to reduce the amount of output tax by the amount of input tax can be exercised in the settlement for the period in which the tax obligation arose with respect to the acquired goods or services, provided that the taxpayer includes the amount of output tax due for these transactions in the tax return in which the taxpayer is obliged to settle the tax.</p>
Allocation of movable supply in chain transactions	<p>The new provisions clarify that in the case of goods that are dispatched or transported (movable supply) from the territory of the country to the territory of a third country or from the territory of one Member State to the territory of another Member State by:</p> <ul style="list-style-type: none"> ■ the first supplier – the dispatch or transport is allocated to the supply; ■ the last purchaser – the dispatch or transport is allocated to the supply made to that purchaser.
Extension of the deadline for VAT deduction	<p>A rule has been introduced that if a taxpayer has not reduced the amount of output tax by the amount of input tax within statutory deadlines, they may do so in one of the consecutive three settlement periods after the settlement period in which the right to reduce the amount of output tax arose.</p> <p>Currently, in order to be able to take the deduction, a taxpayer has to amend their VAT return for the period in which they acquired the right to deduct. This amendment will reduce the number of VAT settlement adjustments.</p>
Other amendments	<p>The SLIM VAT 2 package additionally includes the following amendments:</p> <ul style="list-style-type: none"> ■ The possibility to waive the VAT exemption on the supply of real estate through a consensual statement by both parties to the transaction (the supplier and the purchaser) in the notarial deed, ■ allowing a taxpayer who settles tax on the import of goods directly in a tax return to make an adjustment to the return, in a situation where the taxpayer did not correctly account for tax in the original return, ■ enabling the transfer of funds between VAT accounts in different banks of the taxpayer.
Entry of the new regulations into force	<p>The streamlined procedures will take effect on October 1, 2021, with changes to import adjustments and neutral accounting for intra-Community acquisition of goods, import of services and domestic supplies subject to reverse charge to take effect as soon as the day after the law is announced in the Polish Journal of Laws.</p>

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

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