



# SPLIT PAYMENT - 20 things that you have to know

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## What does split payment mean?

Split payment concerns VAT and operates in several countries, such as the Czech Republic, Turkey or Italy. The reason for implementing such a solution in the abovementioned countries, and thus in Poland, is the growing VAT gap.

It should also be emphasized that the split payment mechanism is only applied in relation to transactions carried out for other taxpayers, i.e. in B2B (company - company) relations. This mechanism is not used in B2C transactions (company - individual).

Buyers who have received an invoice with the indicated amount of VAT may (or are obliged to) use the split payment mechanism. In this case, payments for invoice liabilities are made to two bank accounts:

- a) the net value - to the supplier's standard bank account (or otherwise) and
- b) the VAT - to the supplier's special VAT account (connected to the standard bank account).

## Split payment in Poland

The split payment mechanism entered into force on July, 1 2018. The reason for introducing this mechanism was to reduce the number of VAT frauds. At that time it was a new alternative solution previously unknown to Polish taxpayers. Moreover, the mechanism was applied on a voluntary basis.

On February, 18 2019 the Council of the European Union issued an Implementing Decision authorizing Poland to introduce a special measure of mandatory split payment [hereinafter: the Decision]\*.

Pursuant to the provisions of the Decision, Poland is entitled to introduce the mandatory split payment till the end of February 2022. The mandatory split payment applies to 152 groups of goods and services listed in the Annex to the Decision.

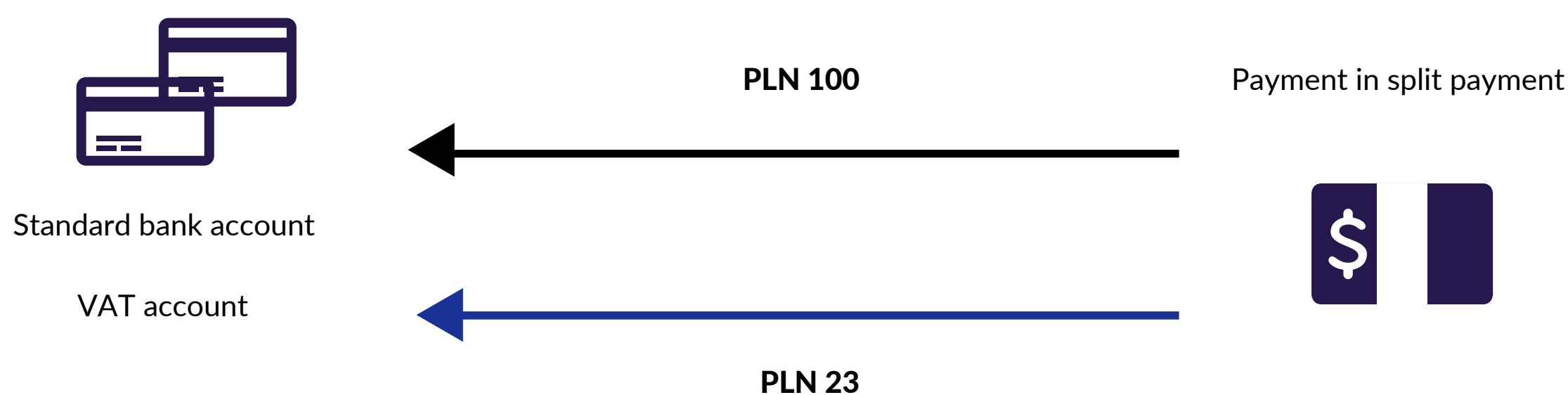
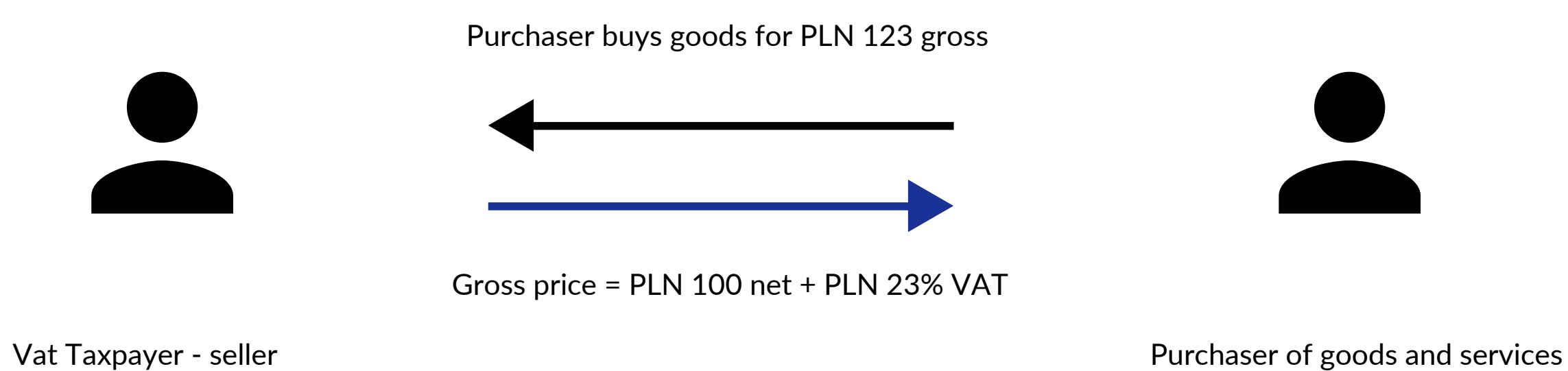
The mandatory split payment has a great impact on businesses. When implementing the split payment mechanism, taxpayers should take into consideration several aspects of the internal processes in the company, i.e.:

- a) cash flow,
- b) currency of the transaction,
- c) practice of making payments (transfers, credit cards, by cash, compensations/deductions),
- d) provisions of contracts for the supply of goods or services covered by the split payment mechanism,
- e) internal purchases/ payment procedures,
- f) the invoicing process,
- g) internal due diligence procedures.

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\*Derogating from the Article 226 of Directive 2006/112/EC on the common system of value added tax, No. 2019/0007 (NLE).

## Split payment mechanism



## Transactions covered by the split payment mechanism

The mandatory split payment mechanism applies to the listed supplies of goods and services conducted by VAT taxpayers. The payment for the aforementioned goods or services should be made by means of electronic bank transfers.

The mechanism applies only to the transactions performed within the territory of Poland by two VAT taxpayers (B2B). The term taxpayer should be understood as an active VAT payer, a taxpayer exempted from VAT and a taxpayer not registered for VAT purposes. Thus, the mechanism does not apply to transactions with customers. It should be noted that the mechanism may be used in transactions with public administration entities.



## Conditions of the mandatory split payment

No	Conditions
1	A VAT taxpayer receives an invoice with a VAT amount, transfers the entire or part of the VAT amount prior the supply of goods or services to the relevant VAT account.
2	A VAT invoice documents the purchase of goods or services listed in the amendment No. 15 to the Polish VAT Act.
3	The split payment mechanism applies in case VAT is paid in PLN in case of payments via bank's transfers.
4	The invoice amount is at least PLN 15.000 (pursuant to Article 19 item 2 of the Entrepreneurs Law) .

## List of goods and services covered by the split payment mechanism - amendment No. 15 to the Vat Act

Amendment No. 15 to the VAT Act contains 150 items of goods and services subject to the mandatory split payment. As a rule the purpose of the implementation of the split payment mechanism was to replace specific VAT solutions existing previously, e.g. the reverse charge mechanism in domestic transactions and joint and several tax liability of the purchaser of the following goods:

- a) steel,
- b) scrap,
- c) electronic equipment,
- d) gold,
- e) non-ferrous metals,
- f) petrol,
- g) plastics,



however, the split payment mechanism applies also to transactions which were not covered by the specific VAT regimes before, e.g.:

- a) parts and accessories for motor vehicles,
- b) coal and coal products,
- c) selected machines and electronic devices, their parts and accessories.

The identification of the goods and services for the purposes of the split payment mechanism is made according to the Polish Classification of Products and Services (PKWiU). However as of 1st November 2019 taxpayers may also apply in that respect for binding advance statistical ruling for VAT purposes.

### List of supplies of goods and services covered by split payment

Item	PKWiU	Name of goods (group of goods) / Name of services (group of services)
1	24.10.12.0	Ferro-alloys
2	24.10.14.0	Pig iron pellets and powder, specular pig iron or steel
3	24.10.31.0	Flat rolled products of non-alloy steel, not further worked than hot-rolled, of a width of $\geq 600$ mm
4	24.10.32.0	Flat rolled products of non-alloy steel, not further worked than hot-rolled, of a width of $< 600$ mm
5	24.10.35.0	Flat rolled products of other alloy steel, not further worked than hot-rolled, of a width of $\geq 600$ mm, excluding products of electrical silicon steel
6	24.10.36.0	Flat rolled products of other alloy steel, not further worked than hot-rolled, of a width of $< 600$ mm, excluding products of electrical silicon steel
7	24.10.41.0	Flat rolled products of non-alloy steel, not further worked than cold-rolled, of a width of $\geq 600$ mm
8	24.10.43.0	Flat rolled products of non-alloy steel, not further worked than cold-rolled, of a width of $\geq 600$ mm, excluding products of electrical silicon steel
9	24.10.51.0	Flat rolled products of non-alloy steel, of a width of $\geq 600$ mm, clad, plated or coated
10	24.10.52.0	Flat rolled products of other alloy steel, of a width of $\geq 600$ mm, clad, plated or coated
11	24.10.61.0	Bars and rods, hot rolled, in irregularly wound coils, of non-alloy steel
12	24.10.62.0	Other bars and rods of steel, not further worked than forged, hot rolled, hot-drawn or extruded, but including those twisted after rolling
13	24.10.65.0	Bars and rods, hot rolled, in irregularly wound coils, of other alloy steel
14	24.10.66.0	Other bars and rods of other alloy steel, not further worked than forged, hot rolled, hot-drawn or extruded, but including those twisted after rolling
15	24.10.71.0	Open sections, not further worked than hot rolled, hot-drawn or extruded, of non- all steel
16	24.10.73.0	Open sections, not further worked than hot rolled, hot-drawn or extruded, of other alloy steel
17	24.31.10.0	Cold drawn bars and solid profiles of non-alloy steel
18	24.31.20.0	Cold drawn bars and solid profiles of alloy steel, other than stainless steel
19	24.32.10.0	Flat cold rolled steel products, uncoated, of a width of $< 600$ mm
20	24.32.20.0	Flat cold-rolled steel products, clad, plated or coated, of a width of $< 600$ mm
21	24.33.11.0	Open sections cold formed or folded of non-alloy steel
22	24.33.20.0	Ribbed sheets of non-alloy steel
23	24.34.11.0	Cold drawn wire of non-alloy steel



Item	PKWiU	Name of goods (group of goods) / Name of services (group of services)
24	24.41.10.0	Unwrought silver or in semi-manufactured form, or in powder form
25	ex 24.41.20.0	Unwrought gold or in semi-manufactured form, or in powder form, excluding investment gold within the meaning of Article 121 of the Act, subject to item 27
26	24.41.30.0	Unwrought platinum or in semi-manufactured form or in powder form
27	Irrespective of PKWiU symbol	Investment gold within the meaning of Article 121 of the Act
28	ex 24.41.40.0	Base metals or silver, plated with gold, in semi-manufactured form - exclusively silver, gold plated, in semi-manufactured form
29	ex 24.41.50.0	Base metals plated with silver and base metals, silver or gold, plated with platinum, in semi-manufactured form - exclusively gold and silver plated, in semi-manufactured form
30	24.42.11.0	Unwrought aluminium
31	24.43.11.0	Unwrought lead
32	24.43.12.0	Unwrought zinc
33	24.43.13.0	Unwrought tin
34	24.44.12.0	Copper, unrefined; copper anodes for electrolytic refining
35	24.44.13.0	Refined copper and copper alloys, unwrought; master alloys of copper
36	24.44.21.0	Copper powders and flakes
37	24.44.22.0	Copper bars, rods and profiles
38	24.44.23.0	Copper wire
39	24.45.11.0	Unwrought nickel
40	ex 24.45.30.0	Other non-ferrous metals and products made of the same; cermets; ashes and residues containing metals and metal compounds - exclusively non-precious metal waste and scrap
41	ex 26.11.30.0	Electronic integrated circuits - exclusively processors
42	ex 26.20.11.0	Portable data-processing machines, weighing <= 10 kg, such as laptops and notebooks; Handheld computers (such as notebooks) and similar - exclusively portable computers such as tablets, notebooks, laptops
43	ex 26.30.22.0	Cellular phones or other wireless networks - only mobile phones, including smartphones
44	ex 26.40.60.0	Video game consoles (such as those used with a television set or a stand-alone screen) and other gaming or gambling apparatus with electronic display - excluding parts and accessories
45	ex 32.12.13.0	Jewellery and parts thereof as well as other jewellery and parts thereof, of gold and silver or precious metal plated - exclusively parts of jewellery and parts of other gold, silver and platinum jewellery, i.e. unfinished or incomplete jewellery and distinct parts of jewellery covered or plated with precious metal
46	38.11.49.0	Wrecks, other than vessels and floating structures, for dismantling
47	38.11.51.0	Glass waste
48	38.11.52.0	Paper and paperboard waste
49	38.11.54.0	Other rubber waste



Item	PKWiU	Name of goods (group of goods) / Name of services (group of services)
50	38.11.55.0	Plastic waste
51	38.11.58.0	Metal-containing waste other than hazardous waste
52	38.12.26.0	Hazardous metal waste
53	38.12.27	Waste and defective electric cells and accumulators; spent galvanic cells and batteries and electric accumulators
54	38.32.2	Metal secondary raw materials
55	38.32.31.0	Secondary raw material of glass
56	38.32.32.0	Secondary raw material of paper and paperboard
57	38.32.33.0	Secondary raw material of plastic
58	38.32.34.0	Secondary raw material of rubber
59	24.20.11.0	Line pipe of a kind used for oil or gas pipelines, seamless, of steel
60	24.20.12.0	Casing, tubing and drill pipe, of a kind used in the drilling for oil or gas, seamless, of steel
61	24.20.13.0	Other tubes and pipes, of circular cross section, of steel
62	24.20.31.0	Line pipe of a kind used for oil or gas pipelines, welded, of an external diameter of <= 406,4 mm, of steel
63	24.20.33.0	Other tubes and pipes, of circular cross section, welded, of an external diameter of <= 406,4 mm, of steel
64	24.20.34.0	Tubes and pipes, of non-circular cross-section, welded, of an external diameter of <= 406,4 mm, of steel
65	24.20.40.0	Tube or pipe fittings of steel, not cast
66	ex 25.11.23.0	Other structures and parts of structures, plates, rods, angles, shapes and the like, of iron, steel or aluminium – only of steel
67	ex 25.93.13.0	Cloth, grills, netting and fencing, of iron, steel or copper wire; expanded metal, of iron, steel or copper – only of steel
68		Motor spirit, diesel oil, fuel gas – within the meaning of the provisions on excise duty
69		Heating oil and lubricating oil – within the meaning of the provisions on excise duty
70	ex 10.4	Animal and vegetable oils and fats - exclusively rape oil
71	ex 20.59.12.0	Emulsions for surface sensitization for use in photography; chemical preparations for use in photography, not elsewhere classified (n.e.c.) - exclusively toners without a print head for automatic data-processing machines.
72	ex 20.59.30.0	Typewriter ink, draft ink and other inks - exclusively ink cartridges without a print head for automatic data processing machines
73	ex 22.21.30.0	Plates, sheets, film, foil, strip and plastic strips, not reinforced, laminated or combined with other materials
74	ex 26.20.21.0	Memory units - exclusively hard drives (HDDs)
75	ex 26.20.22.0	Solid state storage devices - exclusively SSDs
76	ex 26.70.13.0	Digital cameras and digital camcorders – exclusively digital cameras



Item	PKWiU	Name of goods (group of goods) / Name of services (group of services)
77	ex 28.23.26.0	Parts and accessories for photocopiers – exclusively ink cartridges and print heads for printers for automatic data-processing machines, toners with print head for printers for automatic data processing machines
78	ex 58.29.11.0	Operating system software packages – exclusively SSD
79	ex 58.29.29.0	Other software packages - exclusively SSDs
80	ex 59.11.23.0	Other videos and video recordings on disks, magnetic tapes and similar media - exclusively SSDs
81	irrespective of the PKWiU symbol	GHG emission allowance transfer services referred to in the Act of 12 June 2015 on Greenhouse Gas Emission Trading Scheme (Official Journal of 2017 item 568)
82	41.00.30.0	Construction work on residential buildings (works on the construction of new buildings, reconstruction or renovation of existing buildings)
83	41.00.40.0	Construction work on non-residential buildings (works on the construction of new buildings, reconstruction or renovation of existing buildings)
84	42.11.20.0	General construction works involving the construction of motorways, roads, streets and other roads for vehicles and pedestrians and the construction of runways
85	42.12.20.0	General construction works involving the construction of railways and subways
86	42.13.20.0	General construction works involving the construction of bridges and tunnels
87	42.21.21.0	General construction works involving the construction of transmission pipelines
88	42.21.22.0	General construction works involving the construction of distribution networks, including auxiliary works
89	42.21.23.0	General construction works involving the construction of irrigation systems (sewers), bus and water lines, facilities for water treatment and sewage treatment and pump stations
90	42.21.24.0	Works involving the drilling of wells and water intakes and installation of septic tanks
91	42.22.21.0	General construction works involving the construction of telecommunications and power transmission lines
92	42.22.22.0	General construction works involving the construction of telecommunications and power distribution lines
93	42.22.23.0	General construction works involving the construction of power plants
94	42.91.20.0	General construction works involving the construction of wharves, ports, dams, locks and related hydro-technical facilities
95	42.99.21.0	General construction works involving the construction of production and mining facilities
96	42.99.22.0	General construction works involving the construction of stadiums and sports fields
97	42.99.29.0	General construction works involving the construction of other civil engineering structures
98	43.11.10.0	Works involving demolition of buildings
99	43.12.11.0	Works involving the preparation of the site for construction, excluding earthworks
100	43.12.12.0	Earthworks: digging, ditch digging and earth moving jobs



Item	PKWiU	Name of goods (group of goods) / Name of services (group of services)
101	43.13.10.0	Works involving the excavation and geological-engineering drilling
102	43.21.10.1	Works involving the execution of electrical safety installations
103	43.21.10.2	Works involving the implementation of other electrical installations
104	43.22.11.0	Works involving the execution of plumbing and drainage works
105	43.22.12.0	Works involving the execution of heating, ventilation and air conditioning systems
106	43.22.20.0	Works involving the execution of gas installations
107	43.29.11.0	Insulation work
108	43.29.12.0	Installation of fencing
109	43.29.19.0	Other installation works n.e.c.
110	43.31.10.0	Plastering works
111	43.32.10.0	Installation work for carpentry
112	43.33.10.0	Works involving the laying the floor and facing the walls
113	43.33.21.0	Works involving the laying of terrazzo, marble, granite or slate on floors and walls
114	43.33.29.0	Other works involving the laying of floors and walls (including wallpapering), n.e.c.
115	43.34.10.0	Painting works
116	43.34.20.0	Glass-making works
117	43.39.11.0	Works involving the decoration
118	43.39.19.0	Works involving the execution of other finishing works, n.e.c.
119	43.91.11.0	Works involving the construction of roof structures
120	43.91.19.0	Works involving other roofing work
121	43.99.10.0	Works involving the installation of damp-proof and waterproof insulation
122	43.99.20.0	Works involving the assembly and dismantling of scaffolding
123	43.99.30.0	Works involving the construction of foundations, including pile driving
124	43.99.40.0	Concrete works
125	43.99.50.0	Works involving erection of steel structures
126	43.99.60.0	Works involving the erection of brick and stone structures
127	43.99.70.0	Works involving the assembly and erection of prefabricated structures
128	43.99.90.0	Works involving the performance of other specialized works, n.e.c.
129	05.10.10.0	Hard coal
130	05.20.10.0	Lignite
131	19.10.10.0	Coke and semi-coke of coal and lignite or of peat; retort carbon
132	19.20.11.0	Briquettes and similar solid fuels manufactured from coal
133	19.20.12.0	Briquettes and similar solid fuels manufactured from lignite
134	ex 26.70.13.0	Digital cameras for photography and digital cameras – exclusively digital cameras
135	26.40.20.0	Television receivers, whether or not combined with radio-broadcast receivers or sound or video recording or reproduction apparatus



Item	PKWiU	Name of goods (group of goods) / Name of services (group of services)
136	26.20.1	Computers and other automatic data processing machines
137	30.91.20.0	Parts and accessories of motorcycles and side-cars
138	27.20.2	Electric accumulators and parts thereof
139	28.11.41.0	Parts for spark-ignition internal combustion engines, excluding parts for aircraft engines
140	ex 29.31.10.0	Ignition cable harnesses and other wiring sets of a kind used in vehicles, aircraft or watercraft – exclusively ignition cable harnesses and other wiring sets of a kind used in vehicles
141	29.31.21.0	Sparking plugs; ignition magnetos; magneto-dynamos; magnetic flywheels; distributors; ignition coils
142	29.31.22.0	Starter motors and dual purpose starter-generators; other generators and other equipment for combustion engines
143	29.31.23.0	Electrical signalling equipment, windscreen, defrosters and demisters for motor vehicles
144	29.31.30.0	Parts of other electrical equipment for motor vehicles
145	29.32.20.0	Safety seat belts, airbags and parts and accessories of bodies
146	29.32.30.0	Parts and accessories for motor vehicles n.e.c., excluding motorcycles
147	45.31.1	Trade services of motor vehicle parts and accessories, excluding motorcycles
148	45.32.1	Specialised store retail trade services of motor vehicle parts and accessories, excluding motorcycles
149	45.32.2	Other retail trade services of parts and accessories of motor vehicles, excluding motorcycles
150	ex 45.40.10.0	Wholesale trade services of motorcycles and related parts and accessories – exclusively sale of parts and accessories for motorcycles
151	ex 45.40.20.0	Specialised store retail trade services of motorcycles and related parts and accessories - exclusively sale of parts and accessories for motorcycles
152	ex 45.40.30.0	Other retail trade services of motorcycles and related parts and accessories – exclusively retail sale of parts and accessories for motorcycles

## Obligations of the parties to the transaction

### Duties of the purchaser

The purchasers are obliged to use the split payment mechanism if the subject of the supply involves goods and services listed in amendment No. 15 to the VAT Act. The transaction should be documented by the invoice and the amount due should be PLN 15.000 gross or more.

### Duties of the supplier

The supplier is obliged to indicate the application of the split payment mechanism on the invoice (“mechanizm podzielonej płatności” – split payment mechanism) and enable the contractor to make the payments via the split payment mechanism.



## **Contractual exclusion**

Previously, the split payment mechanism was voluntary for a purchaser of goods and services. Therefore, the parties to the transaction were able to exclude the split payment mechanism in the provisions of the contract.

However, as of November, 1 2019 the parties are not allowed to exclude the split payment mechanism in the contract. This kind of provision will be invalid.

## **Foreign entities and mandatory split payment mechanism**

As of November, 1 2019 taxpayers without the registered office or a fixed establishment within the territory of Poland and obliged to open a bank account in PLN in a Polish bank (for which the bank provide automatically a VAT account for the split payment purposes) will have the costs of the maintenance of the bank account and the VAT account maintained therein reimbursed. The cost will be reimbursed in the amount resulting from the use of the bank account and VAT account opened for the mandatory split payment purposes.

## **Payment in foreign currency**

The regulations implementing the mandatory split payment mechanism excluded the possibility of payment for goods and services in currency other than PLN.

As a rule, the split payment mechanism applies to:

- a) transactions paid by means of a bank transfer,
- b) transactions in Polish currency,
- c) for invoices with a specified amount of VAT.

Payments in foreign currencies by means of a bank transfers in the split payment mechanism are not possible. Many questions have arisen regarding the obligations of foreign taxpayers to settle their tax obligation resulting from the transactions covered by the split payment mechanism – e.g. whether they are obliged to change the currency of the transaction for PLN to settle the tax obligation properly.

Until now, banks have not introduced a technical possibility to use the split payment mechanism in transactions paid in currencies other than PLN. Hence, lack of applicability of the split payment mechanism in payments made in a foreign currency may result in imposing sanctions on foreign taxpayers and purchasers as stipulated in the tax acts.



## Transaction currency - variants of settlements

No	Payment currency	Information reg. supplier's settlement bank account	Bank transfer	Split payment application	Comments
1	Foreign currency (other than PLN) - parties decide to pay the entire gross amount (included VAT) in a foreign currency	The supplier gives the purchaser the number of the bank account maintained by the non - Polish bank in a foreign currency	A transfer in a foreign currency to the supplier's account maintained in the foreign bank	No possibility to use the split payment mechanism by the purchaser	Exchange rate differences in VAT occur (on both sides - supplier's and purchaser's)
2	Gross amount given in the foreign currency is denominated to PLN. The payment treated as an equivalent of a specific amount, e.g. in EUR, but paid in PLN - the entire gross payment materialized in PLN with EUR to PLN conversion (agreed by the parties)	The supplier gives details of their account maintained in PLN in the Polish bank to the purchaser	A transfer to the settlement account maintained in the Polish bank in PLN	A possibility to use the split payment mechanism by the purchaser	An invoice with EUR amounts, also in PLN amounts or just in PLN
3	A double currency transaction: - the net value in foreign currency - the VAT amount in Polish currency (PLN)	The supplier gives details of their account maintained in PLN in a Polish bank and the account maintained in a foreign currency to the purchaser	The payment of the invoice issued in foreign currency goes in two transfers - the net amount will be paid in a foreign currency to the supplier's currency standard account and the amount of VAT from the invoice paid to the Polish VAT account in PLN	A possibility to use the split payment mechanism by the purchaser	The gross amount equal to the VAT amount should be entered in the transfer title. Avoidance of the exchange rate differences.



## Advance payments

As of November, 1 2019, the split payment mechanism (mandatory and voluntary) will apply to the advance payments, which was not possible previously. Taxpayers will be allowed to make split payments of the remuneration before the performance of the supply of goods or services in whole or in part.

This situation applies to advance payments made based for example on:

- a) a pro-forma invoice,
- b) an accounting note,
- c) a payment request.

Generally, if a taxpayers make an advance payment in the split payment mechanism, they should be protected against the joint and several tax liability, additional tax obligation (VAT sanction) and increased interest for the delay. In the case of the mandatory split payment, if a taxpayer makes advanced payments which does not result from an invoice (but from a pro forma invoice, an accounting note or a payment demand), they should be able to prove that payment pertains to a concrete invoice. On the other hand, if an advanced payment is documented by an invoice, the number of the invoice should be given in the title of the bank transfer.

## Deduction of mutual claims

If the subject of the transaction includes goods or a service listed in amendment No. 15 to the VAT Act and the parties to the transaction are both a debtor and a creditor and want to offset their claims, they may use the split payment mechanism.

The mandatory split payment mechanism shall not apply to the amount of the deduction. If, after making a mutual deduction, there is still an amount to be paid, the difference should be settled in the split payment mechanism. The amount subject to mutual deductions should be due.

## Joint and several liability of the purchaser for the supplier's VAT

The purchaser of the goods listed in amendment No. 15 to the VAT Act is jointly and severally liable with the suppliers for their tax arrears partially for the VAT falling proportionally on the delivery made to them. The condition of the liability is knowledge or reasonable doubt of the purchaser as regards the risk of non-payment of the amount of VAT resulting from this transaction to the tax office by the supplier.

If:

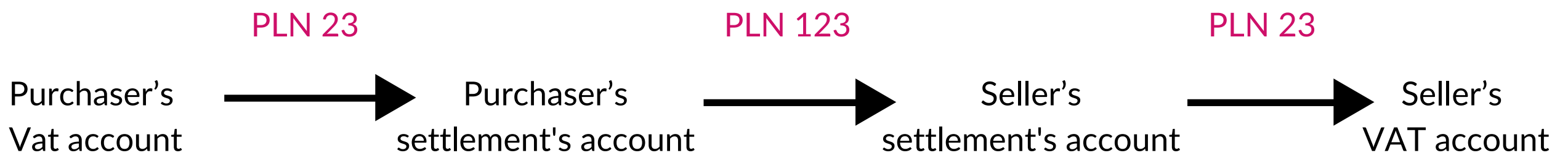
- a) **the goods** purchased are listed in amendment No. 15 to the VAT Act and
- b) the gross amount of the invoice is less than PLN 15.000, and
- c) the purchaser does not make payment in the split payment mechanism for these goods, they bear joint and several liability with the supplier of the goods if the supplier fails to pay the VAT amount resulting from the transaction to the tax office.

It should be noted that the liability does not apply to the services listed in amendment No. 15 to the VAT Act.



# Split payment transfers

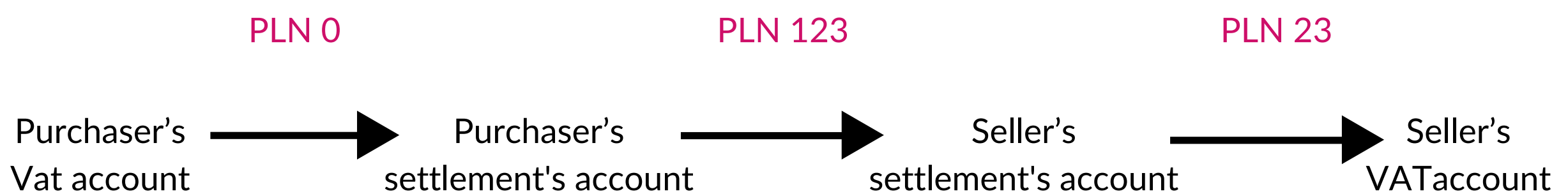
## Split payment transfer with available funds on the VAT account



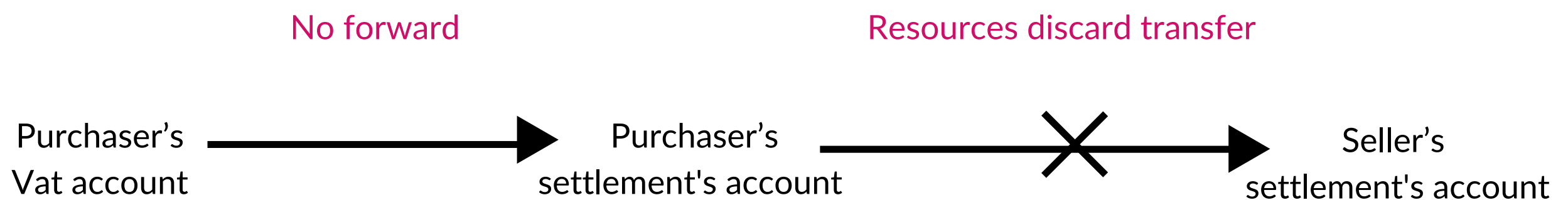
## Split payment transfer with insufficient funds on the VAT account



## Split payment transfer with no funds on the VAT account



## Split payment transfer with insufficient measures in settlement account

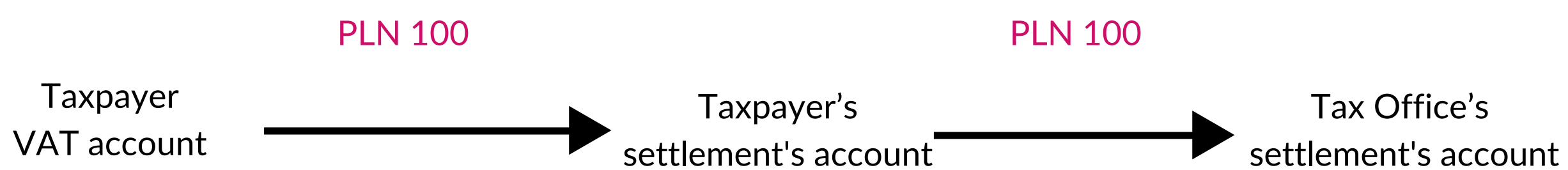




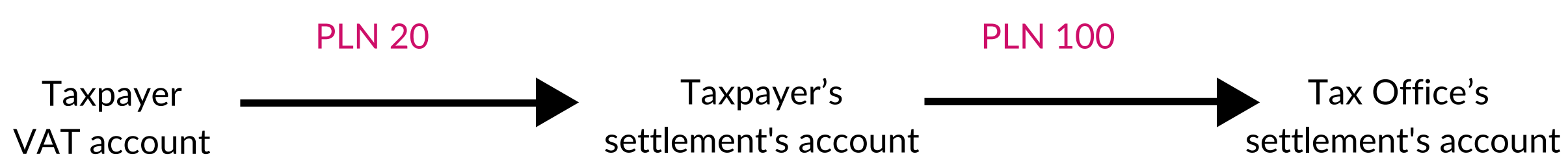
**Split payment between own settlements accounts**



**Split payment transfer into the Tax Office's settlement account with available funds on the VAT account**



**Split payment transfer into the Tax Office's settlement account with insufficient funds on the VAT account**



## VAT refund to the VAT account

Taxpayers are entitled to receive a VAT refund (a surplus of input tax over an output tax) to the VAT account in a shortened term – 25 days from the day of submission of the settlement for a specific period. This is a way to receive a VAT refund that is additional to the rules currently in force (the general term is 60 days and in practice is postponed due to further examination of a taxpayer, especially in the form of a tax audit).

The condition of receiving a VAT refund to the VAT account within 25 days is just to file a motion in this procedure by filling the VAT return in appropriate cells.

Tax authorities are not allowed to extend the deadline of 25 days. They are obliged to refund the amount of VAT to the VAT account. Moreover, the rules regarding the extension of the refund term until the completion of the validity check do not apply.

The positive side of this refund is a short term for the VAT refund.

On the other side, a taxpayer has limited access to funds accumulated on this VAT account. It means that the taxpayers may pay VAT, PIT, CIT, social security contributions, customs duties and excise duties with funds from the VAT account. Additionally, a taxpayer may pay its purchase invoices (i.e. input VAT) issued by contractors from the VAT account.

## Benefits of using the split payment mechanism

<b>1</b>	No VAT sanctions with 20%, 30% and 100% (additional tax obligation)
<b>2</b>	No purchaser's joint and several liability with supplier for the amount of VAT resulting from the invoice documenting the supply of goods listed in amendment No. 15 to the VAT Act.
<b>3</b>	No interest for a delay (150% standard rate, pursuant to the Tax Ordinance). Additional conditions: - indication in the return the amount of input tax resulting from at least 95% invoices payed in the split payment mechanism, - the amount of the tax arrears do not exceed twice the amount of input VAT shown in the return.
<b>4</b>	No purchaser's joint and several liability for VAT settlements of the supplier if purchaser made payment to the bank account not listed in the White List.

However, the above mentioned sanctions will be imposed on the taxpayers who knew that the invoice paid in the split payment mechanism:

- a) was issued by a non-existent entity,
- b) states activities that have not been carried out,
- c) gives amounts not in line with the reality,
- d) confirms the activities to which the provisions of the Civil Code apply (an act contrary to the legal provisions and invalidity of a declaration of intent).



## Sanctions and penalties

### Sanctions on supplier

The supplier is obliged to issue the invoice indicating “the split payment mechanism” (in Polish “mechanizm podzielonej płatności”) if it documents the supply of goods and services listed in amendment No. 15 to the VAT Act. Should the invoice fail to indicate the annotation, the taxpayer is entitled to issue a correction invoice.

The sanction will be not imposed on the supplier for not marking the invoice if the purchaser makes payment in the split payment mechanism.

### Sanctions on purchaser

If the purchaser fails to make a payment in the split payment mechanism for an invoice:

- a) indicating “the split payment mechanism”,
- b) documenting the supply of goods and services listed in amendment No. 15 to the VAT Act and
- c) the gross price is PLN 15.000 or more,

then the purchaser exposed themselves to the sanctions on the grounds of:

- a) the VAT Act (30% of the input VAT that was not transferred in split payment),
- b) the CIT and PIT Act (non-deductible costs),
- c) the Fiscal Penal Code.

## Summary

Until the end of October 2019 the split payment mechanism was voluntary. On November, 1 2019, the new regulation entered into force, hence, the mandatory split payment applies. As a rule, the split payment mechanism substitutes the reverse charge mechanism and joint and several liability.

Moreover, some facilities are introduced into the existing mechanism, e.g.:

- a) the ability to pay from VAT account income taxes, excise duties, customs duties, import VAT and social insurance contributions,
- b) the application of the split payment mechanism to the advanced payments without the invoice,
- c) making payments for more than one invoice in one bank transfer and under one title (bulk payments).

## How to prepare?

Taxpayers should take appropriate steps to prepare for the obligatory split payment mechanism, e.g. by:

- a) verifying goods/services in terms of mandatory split payment mechanism,
- b) modifying internal purchasing/due diligence procedures,
- c) making transaction currency changes (if required),
- d) introducing changes in invoicing/new descriptions on invoices,
- e) verifying cash flow,
- f) amending contracts.

## MDDP VAT Team

MDDP VAT team is one of the largest and most successful specialist tax practices in Poland. All four partners of the VAT team are on the list of the best VAT experts - "Indirect Tax Leaders" prepared by the prestigious International Tax Review, which makes MDDP the leader in the field of indirect taxes in Poland. MDDP is the only Polish firm invited to the VAT Expert Group established by the European Commission.

The team comprehensively deals with the Polish and the European tax, its members are parliament experts, experts for business and industry organizations and associations, as well as authors of many publications on VAT, including the commentary on the VAT Act (already having 15 updated editions) and many other books on VAT ( i.e. about mandatory split payment )

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