



TAX
ADVISORY

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CLOSER TO MANDATORY SPLIT PAYMENT IN POLAND

Draft of the executive decision of the Council of the European Union authorising Poland to **introduce a mandatory split payment mechanism** was published on 23rd January 2019 by the European Commission. The draft is related to the Ministry of Finance's plans to introduce this mechanism instead of a reverse charge in domestic transactions. But before it enters into force, the adoption of national legislation is required.

The draft provides that Poland may introduce a mandatory split payment from 1 March 2019 to 28 February 2022.

The areas which are to be covered by the obligatory split payment are primarily the following goods and services susceptible to VAT fraud in the opinion of the Ministry of Finance: steel, scrap, laptops, telephones and smartphones, gold, non-ferrous metals and plastics, construction services. Until now, they are subject to a reverse charge – see appendix no. 11 and 14 to the Polish VAT Act.

Significantly, the obligatory split payment may also cover supplies settled so far under general rules, such as: petrol, diesel oil, fuel gas, as well as fuel oils and lubricants. In addition, the list of goods to be covered by the mandatory split payment also includes parts for combustion engines, electrical signalling equipment, windscreen wipers, antifreezes and parts of electrical equipment for vehicles, seat belts and airbags. Moreover, this mechanism may also cover wholesale and retail sales of parts and accessories for cars and motorcycles.

According to the draft, the mandatory split payment mechanism will apply to the abovementioned supplies of goods and services between taxable persons (B2B) and **will cover only payment made by electronic bank transfers**. The rules of the mechanism will not change compared to the current regulations (voluntary split payment in force from 1 July 2018). However, an important novelty will be application of **the mandatory split payment to payments to entrepreneurs not established in Poland**, who will be also obliged to have a bank account in Polish bank.

A new obligation for taxpayers will be to include an annotation on the invoice that the supplies are covered by the mandatory split payment and that the payment must be made in accordance with this mechanism.

The introduction of a mandatory split payment will have a significant impact on the cash flow and liquidity of taxpayers supplying the goods and services covered by it. Therefore, it is worthwhile to analyze its potential impact on operations and liquidity and to draft changes in the business model and terms and conditions of cooperation with business partners to reduce the potential negative effects of changes.

To introduce a mandatory split payment both an authorization of the EU Council and an amendment to the Polish VAT Act are required. It is possible that the EU Council adopts its decision during the next meeting in mid-February. This means that the nearest date when the Polish VAT Act may be amended may be as early as **1st April 2019**, or more likely **1st July 2019**.

Therefore, we recommend carrying out an analysis of the potential impact of the planned changes on your business and financial liquidity in the near future.

If you are interested in obtaining further information, or would like to discuss the impact of the above changes please contact:

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