



OBLIGATORY SPLIT PAYMENT EFFECTIVE SOON!

The Ministry of Finance has published a bill amending the VAT Act and some other acts, providing for **the introduction of a mandatory split payment model** for certain transactions **from 1st September 2019**.

Although, in our opinion, the above proposed effective date is quite unlikely, one should bear mind that the proposed amendments are serious and require adequate preparation of the organization, despite the effective date will be 1st September 2019 or, for example, 1st January 2020,.

The essence of the amendments

The essence of the bill lies in the obligation for the purchaser to apply split payment for certain goods and services, as well as the obligation for the supplier to include a relevant clause on the invoice documenting such supply of goods or services.

Failure to meet these obligations will result in serious sanctions.

Goods and services covered by the amendment

The bill provides that the mandatory split payment mechanism will apply in particular to supplies of goods and services that are currently subject to the reverse charge mechanism. The bill eliminates the application of the reverse charge mechanism in transactions between domestic entities and replaces it with the split payment model. However, the obligatory split payment model will concern a slightly wider range of goods than those currently covered by the reverse charge mechanism. Thus, the obligation to make payments using the split payment mechanism will cover in particular the following goods and services:

- steel products and scrap,
- construction services,
- consumer electronics (computers, telephones, TV sets, etc.),
- motor fuels,
- coal products.

Moreover, in domestic trade, the split payment model will cover supplies of other goods, e.g. automotive parts and accessories.

Transaction value threshold and payment execution

Payments using the split payment mechanism will apply to invoices documenting **transactions made between taxpayers (B2B) with a one-off value exceeding PLN 15,000** (regardless of the number of payments resulting from the transaction).

The operation principles of the mechanism will not change in relation to the ones currently in force in this area under the VAT Act. However, payment for more than one invoice from a given period will be possible with a single payment transfer. This is definitely a desirable change.

Sanctions

The sanctions suggested in the bill are simply stunning and are divided into several categories. First of all, the bill assumes a new VAT sanction of **100% of the amount of the tax disclosed on the invoice** which may be imposed on:

- **the invoice issuer** just for failure to include on the invoice the notice “split payment mechanism”,
- **the purchaser of goods/services** who will not make the payment of VAT from the invoice in the split payment mechanism despite such an obligation.

Second of all, failure to make a payment through the split payment mechanism if there is such an obligation will also result in exclusion of the expense from tax deductible costs in CIT/PIT settlements.

And last but not least, the bill provides for a fine included in the penal fiscal code - a taxpayer's failure to comply with the split payment obligation will be subject to a fine of up to **PLN 21,600,000**. In the case of acts of lesser gravity, the perpetrator of the prohibited act will be liable to a fine for a fiscal misdemeanour.

What's next?

The matter looks rather serious; therefore, it is worth analysing the impact of the proposed regulations on your business.

At present, legislative work on the bill is still ongoing, the bill has been sent to public consultations for comments to be submitted by 6th June 2019. MDDP is going to submit such comments in due time as we believe that the proposal requires to be changed. Please contact us if you would like to discuss the bill before this date.

We will be happy to assist you if you would like to analyse what impact the proposed amendments may have on your current operations.

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

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or your MDDP adviser.

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