Mandatory split payment mechanism from 1st November 2019

According to the modified VAT Law, starting from 1st November 2019, the obligation to use split payment mechanism for selected transactions is coming into force. In comparison with the draft law, final regulations were significantly amended. Below we present the most important information on the new obligation.

Basic assumptions
Split payment mechanism has been applied since 1st July 2018, however – it applies on a voluntarily basis. It is the buyer who decides whether he will pay using split payment mechanism, so the net amount will be transferred to the regular bank account, whereas the VAT amount will be transferred to the so-called “VAT account”.

Starting from 1st November 2019, this mechanism will be obligatory for selected categories of supplies of goods and services.

As a rule, it will apply to domestic sales that are currently accounted for based on the reverse charge rule (e.g. delivery of steel bars, mobile phones, waste, secondary raw materials) and the sales which are covered by the joint and several liability of the buyer (such as deliveries of fuel, steel pipes). Also, the mandatory split payment will cover the supply of construction services.

In addition, the mandatory split payment will be applied to new categories of goods, including parts and accessories for motor vehicles, coal and coal products, or television sets.

Only for payments for invoice above threshold of PLN 15,000
The mandatory split payment will cover payments resulting from invoices for selected goods and services (mentioned in Appendix no. 15 to the VAT Law) exceeding the threshold of PLN 15,000 gross (or equivalent of this amount).

Regulations governing the joint and several liability of the buyer will also be amended.

VAT sanction for the lack of split payment
The invoice with value exceeding PLN 15,000 gross, documenting sales covered by the mandatory split payment, will have to include an annotation “mechanizm podzielonej płatności” (“split payment mechanism” in Polish).

The lack of such reference on the invoice will result in severe consequences – the tax authorities will impose an additional tax liability (VAT sanction) on the seller in the amount of 30 percent of the VAT amount resulting from that invoice.

What is more, the 30 percent sanction will also be introduced for the buyer, who, despite the obligation to make a payment in the split payment mechanism, will pay this amount in a different way.

At the same time, the above sanctions will not be applied in case:
(i) in spite of lack of annotation “split payment mechanism” on invoice, the purchaser pays for invoice using split payment mechanism; (ii) despite lack of making payment in split payment mechanism, the seller accounts for whole VAT amount resulting from invoice.

The payment made without the obligatory split payment mechanism will not constitute a tax cost for PIT and CIT purposes. This omission will be also covered by penal liability under the Fiscal Penal Code.

Single “payment message” for multiple invoices
The new regulations introduce the possibility of making payment for more than one invoice via a single payment message.

However, this possibility will be restricted significantly. Most of all, the payment message will have to cover all invoices received by the taxpayer in a given period from a single supplier.

Other significant changes
The following changes should be taken into account as well:

• accepting the possibility of regulating other public duties (e.g. CIT, PIT, excise and customs duty) using money kept on the VAT account;

• imposing the obligation to open a Polish bank account (or personal account in SKOK) for each taxpayer applying the obligatory split payment (including foreign taxpayers).

The new provisions on split payment shall become effective as of 1st November 2019 (excluding regulations limiting tax costs in CIT and PIT, that would take effect from 1st January 2020).

The new obligation will itself constitute a serious challenge for taxpayers and it will involve necessity to introduce respective changes in tax settlements and accounting systems.
What is more, several new regulations are controversial. For instance, the interpretation of the following topics is ambiguous: correcting invoices, payments in currencies other than PLN, netting settlements.

Due to the short period of time for adaptation to the changes, we encourage you to contact us.

Contact

**Tomasz Bełdyga**
Partner
Tel. : +48 22 528 11 98
Fax: +48 22 528 11 59
tbeldyga@kpmg.pl

**Piotr Żurowski**
Partner
Tel. : +48 22 528 10 13
Fax: +48 22 528 11 59
pzurowski@kpmg.pl

**Agnieszka Laskowska**
Director
Tel. : +48 22 528 13 78
Fax: +48 22 528 11 59
alaskowska@kpmg.pl

**Agnieszka Smolińska-Wiśnioch**
Director
Tel. : +48 22 528 12 64
Fax: +48 22 528 11 59
asmolinska@kpmg.pl

KPMG Offices

**Warszawa**
ul. Inflancka 4a
00-189 Warszawa
Tel. : +48 22 528 11 00
Fax: +48 22 528 10 09
kpmg@kpmg.pl

**Kraków**
ul. Opolska 114
31-323 Kraków
Tel. : +48 12 424 94 00
Fax: +48 12 424 94 01
krakow@kpmg.pl

**Poznań**
ul. Roosevelta 22
60-829 Poznań
Tel. : +48 61 845 46 00
Fax: +48 61 845 46 01
poznan@kpmg.pl

**Wrocław**
ul. Szczytnicka 11
50-382 Wrocław
Tel. : +48 71 370 49 00
Fax: +48 71 370 49 01
wroclaw@kpmg.pl

**Gdańsk**
al. Zwycięstwa 13a
80-219 Gdańsk
Tel. : +48 58 772 95 00
Fax: +48 58 772 95 01
gdansk@kpmg.pl

**Katowice**
ul. Francuska 36
40-028 Katowice
Tel. : +48 32 778 88 00
Fax: +48 32 778 88 10
katowice@kpmg.pl

**Łódź**
ul. Składowa 35
90-127 Łódź
Tel. : +48 42 232 77 00
Fax: +48 42 232 77 01
lodz@kpmg.pl

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future.

No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

© 2019 KPMG Tax M.Michna sp.k., a Polish limited partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.